

ORDINANCE NO. O-2022-23

**AN ORDINANCE AMENDING CHAPTER 2 “ADMINISTRATION” ARTICLE II “CITY COUNCIL” DIVISION I  
“GENERALLY” OF THE CODE OF ORDINANCES, CITY OF WHEATON, ILLINOIS - DEFINING MEETINGS AND  
ELECTRONIC ATTENDANCE PARTICIPATION AT MEETINGS**

**WHEREAS**, the City of Wheaton, Illinois (“City”) is an Illinois Home Rule Municipality pursuant to the provisions of Article VII, Section 6 of the Illinois Constitution, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, pursuant to the Illinois Open Meetings Act, 5 ILVS 120/1 et seq. (“Act”), members of public bodies may attend meetings via video or audio conference (“Electronic Attendance”) subject to certain conditions and restrictions and to the extent allowed by rules adopted by the public body; and

**WHEREAS**, the Mayor and the City Council desire to authorize Electronic Attendance by City Council members at meetings of the City Council and Committee or Subcommittee of the City Council in accordance with the Act; and

**WHEREAS**, the Mayor and the City Council have determined that it is in the best interest of the City and the public to approve and implement electronic meeting attendance in appropriate settings while still favoring personal attendance at meetings.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Wheaton, Illinois, by its home rule authority, that the Wheaton City Code, Chapter 2 “Administration”, Article II “City Council”, Division I “Generally”, is hereby amended by adding sections to be numbered Section 2-41 and Section 2-42, which said sections reads as follows:

**SECTION 1:**

**Section 2-41 – MEETINGS DEFINED.**

The term “meeting” as used in this Code, in reference to meetings of the city council or any committee, subcommittee of the city council, or any board or commission of the city established pursuant to state law or by action of the city council or the mayor (collectively and individually “public body”), shall have the same meaning as in the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., as amended from time to time.

Members of any public body of the city may attend meetings of the public body by electronic means in accordance with applicable state law and rules adopted by the city council and maintained by the clerk.

**Section 2-42 – ELECTRONIC ATTENDANCE PARTICIPATION.**

(a) **Rules Statement.** Any member of the public body may attend any open meetings of the city via electronic means (such as by telephone, video or internet connection) provided that such attendance is in compliance with these rules and any applicable laws. Electronic attendance at closed meetings is not permitted.

(b) **Prerequisites.** A member of the public body may attend a meeting electronically if the member meets the following conditions:

- (1) The member should notify the clerk or recording secretary in advance unless impractical, so that necessary communications equipment can be arranged. Inability to make the necessary technical arrangements will result in denial of a request for remote attendance.
- (2) The member must assert one of the following three reasons why the member is unable to physically attend the meeting,
  - i. The member cannot attend because of personal illness or disability; or
  - ii. The member cannot attend because of nonroutine employment obligations or official business of the city; or
  - ii. The member cannot attend because of a family or other emergency.

(c) Authorization to Participate.

- (1) The clerk or recording secretary, after receiving the electronic attendance request, shall inform the public body of the request for electronic attendance.
- (2) After establishing that a quorum is physically present at a meeting where a member of the public body desires to attend electronically, the presiding officer shall state that
  - i. a notice was received by a member of the public body in accordance with this subsection, and
  - ii. the member will be deemed authorized to attend the meeting electronically unless a motion objecting to the member's electronic attendance is made, seconded, and approved by two-thirds of the members of public body physically present at the meeting. If no such motion is made and seconded or if any such motion fails to achieve the required vote by the members of the public body physically present at the meeting, then the request by the member to attend the meeting electronically shall be deemed approved by the public body and the presiding officer shall declare the requesting member present. After such declaration by the presiding officer, the question of a member's electronic attendance may not be reconsidered.

- (d) Adequate Equipment Required. The member participating electronically, and other members of the public body must be able to communicate effectively, and members of the audience must be able to hear all communications at the meeting site. Before allowing electronic attendance at any meeting, the public body shall provide equipment adequate to accomplish this objective at the meeting site.
- (e) Minutes. Any member attending electronically shall be considered an off-site attendee and counted as present electronically for that meeting if the member is allowed to attend. The meeting minutes shall also reflect and state specifically whether each member is physically present or present by electronic means.
- (f) Rights of Remote Member.
  - (1) A member permitted to attend electronically will be able to express their comments during the meeting and participate in the same capacity as those members physically present, subject to all general meeting guidelines and procedures previously adopted and adhered to.
  - (2) The members attending electronically shall preface their comments and their votes by first stating their last name.
  - (3) The member attending electronically shall be considered legally present for any vote taken.
  - (4) A member attending electronically may leave a meeting and return as in the case of any member, provided the member attending electronically shall announce their leaving and returning.
  - (5) If a member attending electronically would normally chair the meeting, a mayor or chair pro tempore who is physically present shall be appointed.
- (g) Committees, Boards and Commissions. This subsection shall apply to all committees, boards and commissions established by authority of the city.
- (h) Disaster declarations. Nothing in this subsection shall limit the ability of the city council or other covered group to meet electronically, as permitted by 5 ILCS 120/7, of the Illinois Open Meetings Act when the proper disaster declarations and determinations have been made.

**SECTION 2:** In all other respects, the terms and provisions of the Wheaton City Code are ratified and remain in full force and effect.

**SECTION 3:** All ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

**SECTION 4:** In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

**SECTION 4:** This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

  
Philip J. Suess  
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Mayor

ATTEST:

  
Andrea Rosedale  
\_\_\_\_\_  
City Clerk

Roll Call Vote:

Ayes: Councilwoman Robbins  
Councilman Weller  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilman Brown  
Mayor Suess  
Councilwoman Fitch

Nays: None  
Absent: None

Motion Carried Unanimously

Passed: May 16, 2022

Published: May 17, 2022