

2  
3 **A RESOLUTION ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE**  
4 **COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS OF**  
5 **COMMUNICATION**  
6

7 **WHEREAS**, P.L. 88-2021 (HEA 1437), SEC. 5, amended IC 5-14-1.5-1 et seq.  
8 (Act), effective April 20, 2021 by amending IC 5-14-1.5-3.5 to prescribe new  
9 requirements by which members of the governing body of a public agency of a political  
10 subdivision may participate in a meeting by any electronic means of communication;

11 **WHEREAS**, a member of the governing body may participate by any means of  
12 communication that:

- 13 • Allows all participating members of the governing body to simultaneously  
14 communicate with each other; and
- 15 • Except for a meeting that is an executive session, allows the public to  
16 simultaneously attend and observe the meeting;

17 **WHEREAS**, the Act requires the governing body to adopt a written policy  
18 establishing the procedures that apply to a member’s participation in a meeting by an  
19 electronic means of communication and may adopt procedures that are more restrictive  
20 than the procedures established by I 5-14-1.5-3.5(d); and

21 **WHEREAS**, the Common Council (Council) is the governing body of the City of  
22 Fort Wayne, Indiana; and

23 **WHEREAS**, Council desires to adopt a policy to allow participation by electronic  
24 means of communication.  
25  
26

27 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE**  
28 **CITY OF FORT WAYNE, INDIANA:**

29 **Section 1.** (a) The provisions of the Act, including definitions, apply to this resolution.

30 (b) This resolution shall be known as the “Electronic Meetings Policy” of  
31 the Council and applies to the Council and any committee appointed directly by  
32 the Council or its presiding officer.

1 **Section 2.** (a) Subject to Sections 3 and 5, any member may participate in a meeting  
2 by any electronic means of communication that: (i) allows all participating members of  
3 the governing body to simultaneously communicate with each other; and (ii) other than  
4 a meeting that is an executive session, allows the public to simultaneously attend and  
5 observe the meeting.

6 (b) A member who participates by an electronic means of communication:  
7 (i) shall be considered present for purposes of establishing a quorum; and may  
8 participate in final action only if the member can be seen and heard.

9 (c) All votes taken during a meeting at which at least one (1) member  
10 participates by an electronic means of communication must be taken by roll call vote.

11  
12 **Section 3.** (a) At least fifty percent (50%) of the members must be physically present  
13 at a meeting at which a member will participate by means of electronic communication.  
14 Not more than fifty percent (50%) of the members may participate by an electronic  
15 means of communication at that same meeting.

16 (b) A member may not attend more than fifty percent (50%) of the  
17 meetings in a calendar year by an electronic means of communication, unless the  
18 member's electronic participation is due to:

- 19 (1) military service;
- 20 (2) illness or other medical condition;
- 21 (3) death of a relative; or
- 22 (4) an emergency involving actual or threatened injury to persons or  
23 property.

24  
25 (c) A member may attend two (2) consecutive meetings (a set of  
26 meetings) by electronic communication. A member must attend in person at least one  
27 (1) meeting between a set of meetings that the member attends by electronic  
28 communication, unless the member's absence is due to:

- 29 (1) military service;
- 30 (2) illness or other medical condition;
- 31 (3) death of a relative; or
- 32 (4) an emergency involving actual or threatened injury to persons or  
33 property.

34  
35 (d) No member of the Council may participate by means of electronic  
36 communication if they are in violation of subsections (b) or (c) of this section 3 hereof.  
37

1 **Section 4.** The minutes or memoranda of a meeting, resulting from a meeting at  
2 which any member participated by electronic means of communication must:

3 (1) identify each member who:

4 (A) was physically present at the meeting;

5 (B) participated in the meeting by electronic means of  
6 communication; and

7 (C) was absent; and

8 (2) identify the electronic means of communication by which:

9 (A) members participated in the meeting; and

10 (B) members of the public attended and observed the meeting, if  
11 the meeting was not an executive session.

12  
13 **Section 5.** No member of the Council may participate by means of electronic  
14 communication in a meeting at which the Council may take final action to:

15 (1) adopt a budget;

16 (2) make a reduction in personnel;

17 (3) initiate a referendum;

18 (4) impose or increase a fee;

19 (5) impose or increase a penalty;

20 (6) exercise the Council's power of eminent domain; or

21 (7) establish, impose, raise or renew a tax.

22  
23 **Section 6.** (a) If an emergency is declared by:

24 (1) the governor under IC 10-14-3-12; or

25 (2) the mayor under IC 10-14-3-29;

26 members are not required to be physically present for a meeting  
27 until the emergency is terminated.

28  
29 (b) Members may participate in a meeting by any means of  
30 communication provided that:

31 (1) At least a quorum of the members participate in the meeting by means  
32 of electronic communication or in person.

33 (2) The public may simultaneously attend and observe the meeting unless  
34 the meeting is an executive session.

35 (3) The minutes or memoranda of the meeting must comply with Section 4  
36 of this resolution.

37 (d) All votes taken during a meeting at which at least one member  
38 participates by an electronic means of communication must be taken by  
39 roll call vote.  
40

1 **Section 7.** Common Council hereby adopts and incorporates by reference additional  
2 rules, as outlined in Appendix A. These rules may be modified at any point during a four  
3 (4)-year term of office with a public vote by the membership of Common Council. These  
4 rules will be made available by request of the public.  
5

6 **Section 8.** This resolution shall be effective from and after adoption by this Council  
7 and compliance with IC 36-4-6-14.  
8  
9  
10  
11

12 \_\_\_\_\_  
13 Paul Ensley, Council Member  
14

15 \_\_\_\_\_  
16 Glynn Hines, Council Member  
17  
18

19  
20 APPROVED AS TO FORM AND LEGALITY  
21

22 \_\_\_\_\_  
23 Joseph G. Bonahoom, City Council Attorney

## Appendix A

### Additional Rules Governing Electronic Meeting Participation, as adopted by Common Council

- Requests to participate electronically must be made no later than noon the day of a meeting to allow time for electronic methods to be coordinated.
  - The Council President, in conjunction with the City Clerk, may extend this deadline for emergency purposes.
- As part of all record keeping, the Fort Wayne City Clerk shall keep all attendance records related to Section 3 of the enabling resolution.
  - Should a member of Council participate electronically for fifteen (15) meetings, for a reason not covered under Section 3(b), the Clerk shall send a communication to the member and the Council Administrator, alerting them to the number.
  - Should a member of Council participate electronically for two (2) consecutive meetings, for a reason not covered under Section 3(c), the Clerk shall send a communication to the member and the Council Administrator, alerting them to the matter.
  - Should a member of Council attempt to participate in a meeting in violation of Section 3(b) or 3(c), the Council Attorney shall request that the Clerk present the formal attendance records and inform that member that they are not permitted to participate in the manner as outlined in the resolution.
- Although it is up to each member of Council to be aware of the provisions in Section 5, the Council Attorney shall announce, if someone is attempting to participate electronically, and shall instruct that they may not participate and that they may not vote on a specific bill if it should violate