

FILED

JUL 12 2021

Belinda Munson
MUNCIE CITY CLERK

AMENDED ORDINANCE NO. 17-21

AN ORDINANCE OF THE CITY OF MUNCIE ESTABLISHING THE POLICY BY WHICH THE MEMBERS OF THE COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS

WHEREAS, during the COVID-19 public health emergency, public bodies became more accustomed to meeting and participating in public meetings by electronic means; and

WHEREAS, the Indiana General Assembly recently amended Indiana Code § 5-14-1.5-3.5 to prescribe new requirements by which members of the governing body of a public agency of a political subdivision may participate in a meeting by any electronic means of communication; and

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

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

WHEREAS, the Act requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by Ind. Code § 5-14-1.5-3.5(d); and

WHEREAS, the Common Council (Council) is the governing body of the City of Muncie, Indiana.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA:

Section 1: Section 32.43 of the City of Muncie Code of Ordinances is hereby adopted to read as follows:

Sec. 32.43 – Electronic Meetings Policy

(A) General

- (1) The provisions of the Indiana Access to Public Records Act, including definitions, apply to this Section.
- (2) This Electronic Meetings Policy applies to the Council and any committee appointed directly by the Council or its presiding officer.
- (3) Subject to Section 32.43(B) below, any member may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the governing body to simultaneously communicate with each other; and (ii) other than a meeting that is an

executive session, allows the public to simultaneously attend and observe the meeting.

- (4) A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and may participate in final action only if the member can be seen and heard.
- (5) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

(B) Restrictions

- (1) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.
- (2) A member may not attend more than twenty-five percent (25%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:
 - (a) military service;
 - (b) illness or other medical condition;
 - (c) death of a relative; or
 - (d) an emergency involving actual or threatened injury to persons or property.
- (3) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:
 - (a) military service;
 - (b) illness or other medical condition;
 - (c) death of a relative; or
 - (d) an emergency involving actual or threatened injury to persons or property.
- (4) No member of the Council may participate by means of electronic communication in a meeting at which the Council may take final action to:
 - (a) adopt a budget;
 - (b) make a reduction in personnel;
 - (c) initiate a referendum;
 - (d) impose or increase a fee;
 - (e) impose or increase a penalty;
 - (f) exercise the Council's power of eminent domain; or
 - (g) establish, impose, raise or renew a tax.

(C) Minutes

- (1) The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:
 - (a) identify each member who:
 - (i) was physically present at the meeting;
 - (ii) participated in the meeting by electronic means of communication; and
 - (iii) was absent; and
 - (b) identify the electronic means of communication by which:
 - (i) members participated in the meeting; and
 - (ii) members of the public attended and observed the meeting if the meeting was not an executive session.

(D) Public Emergency Declaration

- (1) If an emergency is declared by the governor under IC 10-14-3-12 or the mayor under IC 10-14-3-29, members are not required to be physically present for a meeting until the emergency is terminated.
- (2) Members may participate in a meeting by any means of communication provided that:
 - (a) At least a quorum of the members participate in the meeting by means of electronic communication or in person.
 - (b) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.
 - (c) The minutes or memoranda of the meeting must comply with Section (C) of this ordinance.
 - (d) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

- (E) A member that violates the electronic participation requirements of this may be subject to removal in accordance with Indiana Code § 36-4-6-6 and Section 32.06 of the City of Muncie Code of Ordinances.

Section 2: This Ordinance shall be in full force and effect from and after its passage by the Common Council and its approval by the Mayor of the City of Muncie, Indiana, and such publication as may be required by law.

Passed by the Common Council of the City of Muncie, Indiana, this 12 day of July, 2021.

	Yeas	Nays	Abstained	Absent
Ralph Smith	<u>✓</u>	_____	_____	_____
Jeff Robinson	<u>✓</u>	_____	_____	_____
Brandon Garrett	<u>✓</u>	_____	_____	_____
Bradley Polk	<u>✓</u>	_____	_____	_____
Jerry D. Dishman	<u>✓</u>	_____	_____	_____
Anitra Davis	<u>✓</u>	_____	_____	_____
Aaron Clark	<u>✓</u>	_____	_____	_____
Troy A. Ingram	<u>✓</u>	_____	_____	_____
Ro Selvey	<u>✓</u>	_____	_____	_____

[Signature]
President, Common Council

ATTEST:

[Signature]
Belinda Munson, City Clerk

Presented by me to the Mayor for his approval this 12 day of July, 2021.

[Signature]
Belinda Munson, City Clerk

The above Ordinance is approved vetoed by me this 12th day of July, 2021.

[Signature]
Dan Ridenour, Mayor

This Ordinance is proposed by Council Member Bradley Polk

This Ordinance is approved in form by Legal Counsel [Signature]