

ORDINANCE NO. 23-20

**ORDINANCE AMENDING CHAPTER 2 OF THE FORT SMITH  
MUNICIPAL CODE TO DEFINE THE WORD PRESENT TO INCLUDE  
ATTENDANCE BY ELECTRONIC MEANS; ADOPTING TEMPORARY  
BOARD PROCEDURES; DECLARING AN EMERGENCY;  
AND FOR OTHER PURPOSES**

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**WHEREAS**, the City is required by law to have a majority of the elected members of the Board of Directors vote on a particular issue in order to adopt a measure presented for consideration; and,

**WHEREAS**, the City maintains the ability to provide electronic means which would permit a Board member to view a particular meeting as it is being held and also enable that member to actively participate in the meeting despite the fact they are not physically present within the Board meeting room; and,

**WHEREAS**, because of health concerns regarding the COVID-19 virus, public health officials recommend limiting the number of persons physically present at public meetings; and,

**WHEREAS**, the City maintains the ability to broadcast board meetings so the meeting may be viewed electronically without physical presence at the meeting; and,

**WHEREAS**, the City wishes to provide a method for members of the public to present comments on agenda items without physically attending the meeting during this period of health concern.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:**

**SECTION 1:** Article II of Chapter 2 of the Fort Smith Municipal Code is hereby amended by renumbering Section 2-47 as 2-48 and further by adding a new Section 2-47 which provides:

For purposes of Article II of Chapter 2 of the Fort Smith Municipal Code, the word "present" means:

- (i) That the mayor or board member is physically located at the place the board meeting is being held; or,
- (ii) That a board member is appearing by electronic means; provided that the mayor, city administrator, and city clerk are physically present at the place where the board meeting is being held. Board members appearing at meetings pursuant to this subsection shall be entitled to participate by electronic means in matters coming before the board, including discussion, debate and voting, as if they were physically present at the meeting.

**SECTION 2:** On a temporary basis through the date of June 30, 2020, the following supplemental procedures are adopted for meetings of the Fort Smith Board of Directors:

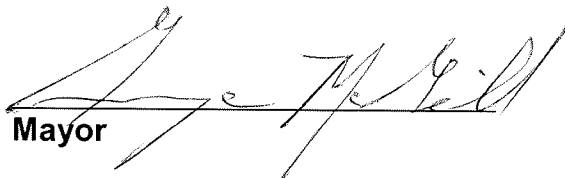
- (a) Based on public health concerns regarding the COVID-19 virus, the public is encouraged to watch the television broadcast or live-streamed internet broadcast of board meetings rather than physically attending board meetings; and,
- (b) Any member of the public may comment on any item of business on the published agenda of the meeting by delivering a written comment (no longer than 200 words) to the city clerk no later than thirty (30) minutes prior to the start of the meeting. Electronic delivery to [cityclerk@fortsmithar.gov](mailto:cityclerk@fortsmithar.gov) is encouraged. Written comments timely so delivered will be read at the meeting.
- (c) The two (2) foregoing provisions do not prohibit actual attendance or comments at the meeting in accordance with the rules and procedures for the Board's meetings.

**SECTION 3:** Codification. The provisions of Section 2 of this Ordinance need not be codified.

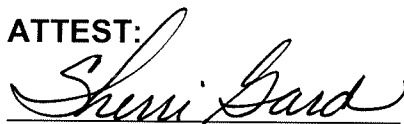
**SECTION 4:** Emergency Clause. In an age when electronic communications make it possible and practical for a member of the Board of Directors to participate in a Board meeting, particularly when said member can view the subject meeting by electronic means that allows the member to be involved in the discussion and voting on a particular issue, the Board should enact a measure which permits such participation. Further, at the time of adoption of this Ordinance, public health concerns regarding the COVID-19 virus create an emergency calling for efforts to limit the size of public gatherings. The provisions of Section 1 and 2 of this Ordinance are essential to the public health, safety, and welfare of the inhabitants of the city of Fort Smith. An emergency is therefore declared to exist, and this Ordinance shall be in full force and effect from and after the time of its passage.

This Ordinance adopted this 17<sup>th</sup> day of March, 2020.

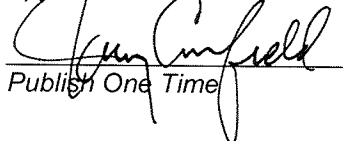
**APPROVED:**

  
Mayor

**ATTEST:**

  
City Clerk

Approved as to Form

  
Publish One Time