

RESOLUTION NO.122021B

A RESOLUTION ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE CITY OF FISHERS COMMON COUNCIL MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION IN ACCORDANCE WITH HEA 1437

WHEREAS, on or around April 20, 2021, Governor Holcomb signed P.L. 88-2021 (HEA 1437) (the “Act”), which amended Indiana’s Open Door Law, Ind. Code § 5-14-1.5 *et. seq.*, by prescribing new requirements by which members of the governing body of a public agency may participate in a meeting by any electronic means of communication;

WHEREAS, in accordance with the Act, a member of the governing body may participate by any means of communication that (i) allows all participating members of the governing body to simultaneously communicate with each other; and (ii) 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

WHEREAS, the Common Council of the City of Fishers, Hamilton County, Indiana (“Council”) now desires to adopt an Electronic Participation Policy (the “Policy”) as more specifically described in Exhibit A, which is attached hereto and incorporated herein, to govern a member’s participation by electronic means of communication.

NOW, THEREFORE, BE IT RESOLVED by the Common Council for the City of Fishers, Hamilton County, Indiana meeting in regular session as follows:

- Section 1. The Council hereby adopts the Policy as more specifically described in Exhibit A, which is attached hereto and incorporated herein.
- Section 2. This Resolution shall be of full force and effect from and upon its adoption and in accordance with Indiana law.

SO RESOLVED, by the Common Council for the City of Fishers meeting this 20th day of December, 2021.

**COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

122021B

YAY

NAY

ABSTAIN

	Selina Stoller President		
	John Weingardt, Vice President		
	C. Pete Peterson, Member		
	Cecilia C. Coble, Member		
	Brad DeReamer, Member		
	Todd Zimmerman, Member		
	Crystal Neumann, Member		
	Jocelyn Vare, Member		
	David Giffel, Member		

I hereby certify that the foregoing Ordinance/ Resolution was delivered to City of Fishers Mayor Scott Fadness on the 20th day of December 2021, at p.m.

ATTEST: _____

Jennifer L. Kehl, City Clerk

MAYOR'S APPROVAL

Scott A. Fadness, Mayor

 December 20, 2021

DATE

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

This instrument prepared by: Christopher P. Greisl, City Attorney, City of Fishers, Hamilton County, Indiana, One Municipal Drive, Fishers, Indiana, 46038

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." Christopher P. Greisl

Exhibit A

[Electronic Participation Policy]

Section 1. Introduction.

(a) The provisions of P.L. 88-2021 (HEA 1437) (the “Act”), including definitions, are hereby incorporated into this Policy.

(b) This policy shall be known as the “Electronic Participation Policy” of the Common Council and applies to the Common Council and any committee appointed directly by the Common Council or its presiding officer.

Section 2. Electronic Participation.

(a) Subject to Sections 3 and 5, 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.

(b) 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.

(c) 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.

(d) A member who participates by an electronic means of communication shall strive to notify the Council President at least 48 hours in advance of the meeting, unless emergency circumstances dictate otherwise.

Section 3. Restrictions on Electronic Participation.

(a) 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.

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

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

(c) A member may attend two (2) consecutive meetings (a “Set”) by electronic communication. A member must attend in person at least one (1) meeting between a Set that the member attends by electronic communication, unless the member’s absence is due to:

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

(d) No member of the Council may participate by means of electronic communication in a meeting at which the Council may take final action to:

- (1) adopt a budget;
- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) impose or increase a fee;
- (5) impose or increase a penalty;
- (6) exercise the Council’s power of eminent domain; or
- (7) establish, impose, raise or renew a tax.

Section 4. Minutes/Memoranda

The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

- (1) identify each member who:
 - (A) was physically present at the meeting;
 - (B) participated in the meeting by electronic means of communication; and
 - (C) was absent; and
- (2) identify the electronic means of communication by which:
 - (A) members participated in the meeting; and
 - (B) members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 5. Declaration of Emergency.

If an emergency is declared by (i) the governor under Ind. Code § 10-14-3-12; or (ii) the mayor under Ind. Code §10-14-3-29; members are not required to be physically present for a meeting until the emergency is terminated.

Members may participate in a meeting by any means of communication provided that:

- (1) At least a quorum of the members participate in the meeting by means of electronic communication or in person.
- (2) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.

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

(c) 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.