

**RESOLUTION NO. R-2020-57**

**A RESOLUTION ESTABLISHING AN OPEN DATA POLICY AND DIRECTING THE CITY MANAGER TO ESTABLISH AN OPEN DATA PROGRAM AND REPORT ON THE PROGRESS OF THAT PROGRAM**

**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 of 1970; and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the subject matter of this resolution pertains to the government and affairs of the City and its residents; and

**WHEREAS**, the City of Wheaton is committed to using technology to foster open, transparent, and accessible government; and

**WHEREAS**, the timely and consistent publication of public information and data is an essential component of an open and effective government; and

**WHEREAS**, the timely online publication of public data will empower Wheaton's residents by providing them with information necessary to participate in government in a meaningful manner, to assist in identifying possible solutions to pressing governmental problems, and to promote innovative strategies for social progress and economic growth; and

**WHEREAS**, by sharing data freely, the City of Wheaton seeks to develop opportunities for economic development, commerce, increased investment and civic engagement; and

**WHEREAS**, the adoption of an open data policy improves transparency, access to public information, and improved coordination and efficiencies among organizations across the public, non-profit and private sectors.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and the City Council of the City of Wheaton, DuPage County, Illinois as follows:

**Section 1:** It is the policy of the City of Wheaton to promote openness, transparency and accountability through open data, to consider public information and data to be "open by default," that is, to be open for inspection unless a countervailing privacy, confidentiality, or security interest exists, to comply with the letter and spirit of public records and other laws, including, but not limited to, the Illinois Freedom of Information Act, and to protect, when applicable, privacy, confidentiality, and security interests within data and information under the City's control. It is further the policy of the City that this policy not compromise, waive or release the ability of the City to fully protect itself and its taxpayers from any and all claims, demands, causes of action or damages associated with the creation and implementation of this policy and does so, by the adoption of the "Terms of Use," attached hereto and incorporated herein as Exhibit 1, and which may be amended from time to time by the City's IT Director and City Manager's discretion, as they deem appropriate.

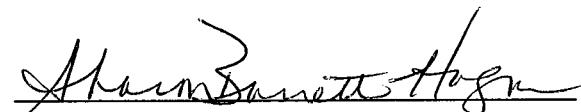
Section 2: The City Manager is directed to coordinate with the director of Information Technology and the City Attorney an open data program which is consistent with City policy and public records and other applicable laws, to provide for, as appropriate, proactive release of data and information to support City priorities and decisions and in the furtherance thereof, to establish and maintain an open data portal on the City's website at [www.wheaton.il.us](http://www.wheaton.il.us) where the City's published data will be publicly available online for informational purposes, and to create a process for oversight of the open data program.

Section 3: Within one year of the effective date of this resolution, the City Manager shall submit to the City Council an open data report which shall include an assessment of progress towards achieving the goals of the City's open data program, a list of datasets currently available on the open data portal, and a description and publication timeline for datasets envisioned to be published on the portal.

ADOPTED this 20<sup>th</sup> day of July 2020.

  
Philip J. Suess  
\_\_\_\_\_  
Mayor

ATTEST:

  
Shannanette Hogan  
\_\_\_\_\_  
City Clerk

Roll Call Vote:

Ayes: Councilwoman Fitch  
Mayor Suess  
Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker

Nays: None

Absent: None

Motion Carried Unanimously

## EXHIBIT 1

**BY CLICKING ON ANY LINKS TO THE CITY'S OPEN DATA SYSTEM YOU AGREE THAT YOU HAVE READ AND UNDERSTAND THE FOLLOWING TERMS OF USE.**

### **WHEATON OPEN DATA TERMS OF USE**

By using data, directly or indirectly, made available through this website or the websites of others appropriating this data, any user agrees to all the conditions stated in the following paragraphs. FAILURE TO REVIEW OR UNDERSTAND THESE TERMS OF USE SHALL NOT RELIEVE A USER OF THESE OBLIGATIONS. All questions regarding the terms of use must be directed in writing to the City of Wheaton's IT department at: City of Wheaton, Information Technology Department, 303 W. Wesley Street, Wheaton, IL 60187-0727.

### **DISCLAIMER OF LIABILITY**

The City of Wheaton ("City") voluntarily provides the data on this website as a service to the public for informational purposes only. The City makes this data available on an "as is" basis and a user uses the data provided on this website at the user's complete and sole risk. **THE CITY MAKES NO WARRANTY, REPRESENTATION, PROMISE, COVENANT OR GUARANTY AS TO THE COMPLETENESS, ACCURACY, TIMELINESS, OR CONTENT OF ANY DATA MADE AVAILABLE THROUGH THIS OR ANY OTHER CITY WEBSITE. THE CITY EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.** In no event shall the City of Wheaton or its elected officials, officers, directors, employees, or agents be held liable under any contract, negligence, strict liability or other legal or equitable theory for any direct, indirect, incidental, consequential, punitive, special, or other damages whatsoever arising out of or relating to the data made available on this website or the user's use of the same, including all claims by third parties, for loss or damages arising from: (1) any errors, omissions, inaccuracies, or other defects in the data provided at this website regardless of how caused; or (2) any decision made or action taken or not taken by anyone using or relying upon data provided at this website. The City does not monitor, investigate or control the use of data by others. The City expressly denies and assumes no liability for any virus or other damage to any computer that might occur during or as a result of accessing this website or the data provided herein.

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(1) Include the following disclaimer at the site where the software application, or other secondary or derivative application can be accessed or downloaded:

"This site provides applications using data that has been modified for use from its original source, [www.wheaton.il.us](http://www.wheaton.il.us), the official website of the City of Wheaton. The City of Wheaton makes no claims as to the completeness, accuracy, timeliness, or content of any of the data provided at this site. The data provided at this site is subject to change at any time. It is understood that the data provided at this site is being used on one's own risk."

(2) Comply with any additional Terms of Use set forth by the City for data used by the software application, or other secondary or derivative application including, without limitation, requirements to include additional citations or disclaimers at the site where the application can be accessed or downloaded.

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#### **INDEMNITY**

To the fullest extent permitted by law, any user of the data provided at this website shall indemnify and hold harmless the City from any claim, loss, damage, injury, or liability of any kind including, without limitation, incidental and consequential damages, court costs, reasonable attorney's fees and costs of investigation, that arise directly or indirectly, in whole or in part, from that user's use of the data, including any secondary or derivative use of the data provided on the City's website. Every user of data provided from the City's website also specifically acknowledges and agrees to have an immediate and independent obligation to defend the City from any claim that may fall within this indemnification provision, even if the allegations are or may be groundless, false, or fraudulent, which obligation arises at the time such claim is tendered to the user by the City and shall continue at all times thereafter.

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