

RESOLUTION NO. R-2024-02

**A RESOLUTION APPROVING AMENDED BY-LAWS FOR
THE DOWNTOWN WHEATON ASSOCIATION, INC.**

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, Paragraph 2 of Resolution R-2018-111, "A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE DOWNTOWN WHEATON ASSOCIATION ("Corporation") REGARDING SPECIAL SERVICE AREA #8" provides that the Corporation's By-Laws shall not be amended during the term of this Agreement without the consent of the City Council, and

WHEREAS, the Corporation has prepared certain amendments to its By-Laws for the purposes of simplicity, clarity and brevity.

NOW, THEREFORE BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois that the Corporation's amended By-Laws dated January 2, 2024, are hereby approved by the Mayor and City Council of the City of Wheaton, Illinois.

ADOPTED the 16th day of January, 2024.



Mayor

Attest:



City Clerk

Roll Call Vote

Ayes: Councilwoman Robbins
Councilman Weller
Councilman Barbier
Councilwoman Bray-Parker
Councilman Brown
Mayor Suess
Councilman Clousing

Nays: None

Absent: None

Motion Carried Unanimously

BY-LAWS OF
DOWNTOWN WHEATON ASSOCIATION, INC.

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BY-LAWS OF
DOWNTOWN WHEATON ASSOCIATION, INC.

Article I
Offices

The principal office of the Downtown Wheaton Association, Inc. shall be located in the City of Wheaton, County of DuPage and State of Illinois, but may be changed from time to time by resolution of the Board of Directors.

Article II
Members

Section I. CLASSES OF MEMBERS. The Downtown Wheaton Association, Inc. shall have two (2) types of Members, voting members and Associate non-voting members. All Members must be in good standing to exercise membership rights and benefits.

- a. **Voting Members** are Members who are one of the following:
 - (i) **Commercial Tenants:** Dues paying Members who own or operate a retail business, or other commercial endeavor, in Special Service Area #8 (SSA #8).
 - (ii) **Property Owners:** Members who own real estate within SSA #8, whether said property is held in name or Trust. All Property Owners must pay real estate tax by the due date on said property to have voting rights.
 - (iii) **Owner Operator:** Members who both own real estate within the boundaries of SSA #8 and operate a commercial business in said real estate. All Property Owners must pay real estate tax by the due date on said property to have voting rights.
 - (iv) **Ownership Group:** Members who are appointed or designated representative(s) of the ownership of any residential rental properties within SSA #8 with more than one hundred (100) units.

Each Member, who is not an individual, shall designate a person who shall exercise the voting rights for the Member. Each Member within the above categories shall be entitled to one (1) vote.

- b. **Associate Members** are non-voting, dues paying Members who do not own property nor have a business within SSA #8.

Section II. DUES. Commercial Tenant Members shall pay annual Membership dues in the amount set by the Board of Directors. Annual membership dues entitle the Member to respective Membership benefits as published by the Downtown Wheaton Association, Inc. and defined by the Board of Directors. Membership dues and corresponding benefits are subject to change without notice. Property Owners within SSA #8 shall not be required to pay dues apart from fees included in the Property Owner's annual property tax bill.

Article III **Meetings**

Section I. OPEN MEETINGS. All meetings of the Downtown Wheaton Association, Inc. are open to the public.

Section II. REGULAR MEETINGS OF DIRECTORS. The Board of Directors shall hold regular meetings of the Board, as a policy and without resolution, on the second (2nd) Wednesday of each month at a place within DuPage County.

Section III. SPECIAL MEETINGS OF THE DIRECTORS. Special meetings of the Board of Directors may be called by or at the request of the President or by a majority of the voting members of the Board of Directors. The President may choose any place within DuPage County as a place for holding any special meeting of the Board.

Section IV. QUORUM. The presence of a majority of voting Members of the Board of Directors shall constitute a quorum for the transaction of business at a regular or special meeting.

Section V. MANNER OF ACTING. An act by the majority of a quorum at a meeting shall be considered an act of the Board of Directors.

SECTION VI. VIRTUAL MEETINGS. Except as otherwise provided in these bylaws, meetings of the Board may be conducted through use of Internet meeting services designated by the President that support visible displays identifying those participating, identifying those seeking recognition to speak, showing (or permitting the retrieval of) the text of pending motions, and showing the results of votes. These electronic meetings of the Board shall be subject to all rules adopted by the Board to govern them, which may include any reasonable limitations on, and requirements for, Directors' participation. Any such rules adopted by the Board shall supersede any conflicting rules in the parliamentary authority.

Section VII. ANNUAL RATIFICATION MEETING. A ratification meeting of the Members for the purpose of inducting Directors shall immediately follow the January regular meeting of the Members. The annual ratification meeting of Directors shall be held, without notice other than this by-law, in January of each calendar year.

Section VII. SPECIAL MEETINGS OF THE MEMBERS. Special meetings of the Members may be called by the President or a majority of the Members of the Board of Directors or by not less than twenty (20) percent of the full Members, and the call shall fix the time, place and purpose of such meeting.

Section VIII. VOTING OF MEMBERS. Subject to the provisions of Section II Article IV, such voting Members shall be entitled to one (1) vote upon any matter submitted to

vote at a meeting of the general Membership. All issues shall be decided by a majority vote of those voting members present. Robert's Rules of Order shall apply.

Section IX. PROXIES. At any meeting of Members, a Member may vote by proxy when executed in writing by the Member (email is acceptable). Such proxy shall be filed with the Secretary of the Downtown Wheaton Association, Inc. before or at the start of the meeting. A proxy is defined as one (1) Member authorizing another Member to cast a vote on their behalf during a meeting.

Section X. NOTICE OF REGULAR AND SPECIAL MEETINGS OF THE DIRECTORS AND/OR MEMBERS. Notice stating the place, day, and time of the meeting (and in case of a special meeting, the purpose(s) for which the meeting is called) shall be delivered not less than two (2) days nor more than seven (7) days before the meeting, either personally, by email, or by phone at the direction of the President or persons calling the meeting, to each Member entitled to vote at such meeting.

Article IV **Directors**

Section I. GENERAL POWERS. The business and affairs of the Downtown Wheaton Association, Inc. shall be managed by its Board of Directors.

Section II. NUMBER AND CATEGORIES OF DIRECTORS. The number of Directors shall be a minimum of nine (9). The Board of Directors may increase or decrease its number of Directors if designated by a majority of the Board of Directors. The number of Directors in any category may exceed by two (2) in any of the following categories. Members must vote within their own category.

- **Three (3) Directors shall be Commercial Tenants.** Each Commercial Tenant shall have one (1) ballot per lease. Each tenant may vote on each ballot for up to three (3) Directors but may not cast more than one (1) vote per ballot per Director.
- **Two (2) Directors shall be Property Owners.** Each Property Owner shall have one (1) ballot per parcel. Each Property Owner may vote on each ballot for up to two (2) Directors but may not vote more than one (1) vote per parcel number per ballot per Director. The number of votes permitted to respective Property Owner shall be determined pursuant to the information provided by the Assessor of DuPage County.
- **Two (2) Directors shall be Owner Operators.** Owner Operators can run in an election as a Property Owner or Owner Operator. This must be declared before the election. Each such Director must be an Owner Operator. Each Owner Operator shall have one (1) ballot per parcel. Said Owner Operator may vote on each ballot for up to two (2) Directors but may not vote more than one (1) vote per parcel number per ballot per Director. The number of votes permitted to respective Owner Operator shall be determined pursuant to the information provided by the Assessor of DuPage County.
- **One (1) to three (3) Directors of the Ownership Group shall be appointed by the Board of Directors.**
- **One (1) Director shall be appointed annually by the Board of Directors from the Associate Members at-large.**

- **One (1) Director shall be appointed annually by the City of Wheaton City Council.**

Section III. NOMINATION OF DIRECTORS. Nominations for new Directors shall open in October and/or November via mail for Property Owners to the address provided by DuPage County, unless otherwise requested in advance, and via email to all other Members. Members may nominate across all membership categories. Nominees must be in good standing to be included on the ballot. Nominees are verified as eligible by the Downtown Wheaton Association, Inc. staff.

Section IV. ELECTION OF DIRECTORS. Elections for the Board of Directors shall be held annually in November and/or December following the nomination period. Voting ballots are mailed to Property Owners to the address provided by DuPage County, unless otherwise requested in advance, and emailed to all other Members. Election results will be certified by the Wheaton City Clerk.

Section V. TENURE OF DIRECTORS.

Each Director shall hold office for a period of three (3) years. Each Director so elected shall hold office until the expiration of the term so elected to or until his or her successor shall have been elected and qualified.

Section VI. QUALIFICATIONS OF DIRECTORS.

A qualifying Director is one who receives sufficient votes to be elected to the Board absent a restriction on the number of Directors that any one (1) entity may have on the Board.

Section VII. VACANCY.

In the event that a Director resigns from the Board, that vacancy shall be filled within sixty (60) days by a majority vote of the entire Board of Directors at any regular or special meeting of the Board of Directors.

Each elected Director shall serve as the representative of the qualified Member. A Director may be removed by the Member at the Member's discretion. A vacancy created by such removal shall be filled by the Board of Directors who will consider a proposed replacement by the Member but will not be bound to accept said proposed replacement. More than one (1) person may be nominated by any Member. In the event of multiple nominees, the Member shall have sole discretion as to who it wishes to be allowed to run on its behalf and serve herein. In the event more than one (1) nominee qualifies for Director, then the Board of Directors may consider which of the qualifying nominees will serve but will not be bound to accept that Nominee.

Section VIII. EX-OFFICIO DIRECTORS. There shall be five (5) Ex-Officio, non-voting Members of the Board of Directors:

- Executive Director of the Downtown Wheaton Association, Inc.
- City Manager of the City of Wheaton, or his or her designated representative.
- President of the Wheaton Chamber of Commerce, or his or her designated representative.

- Executive Director of the Wheaton Park District, or his or her designated representative.
- Executive Director of the Wheaton Public Library, or his or her designated representative.

Section IX. PRESUMPTION OF ASSENT. Each Director who is present at a meeting of the Board of Directors is conclusively presumed to have assented to the actions taken during the meeting, unless:

- His or her dissent or abstention is entered in the minutes of the meeting;
- Director provides his or her written dissent to such action or statement of abstention with the Secretary of the meeting before adjournment thereof;
- Director forwards such dissent in a statement by registered mail to the Secretary of the Downtown Wheaton Association, Inc. within five (5) days after the adjournment of the meeting.

Such right of dissent shall not apply to a Director who voted in favor of such action.

Section X. COMPENSATION. Directors as such shall not receive any salaries for their services in the capacity of Director. Directors may receive compensation from the Downtown Wheaton Association, Inc. for professional services or products provided outside of Director capacity. A Director may be an interested party to a transaction with the Downtown Wheaton Association, Inc. provided the transaction is fair when approved by the Board.

Section XI. REMOVAL. The Board of Directors may remove any Director when, in its judgment, the best interest of the Downtown Wheaton Association, Inc. would be served. Such action requires the vote of two-thirds (2/3) of the entire Board of Directors. Such removal shall be without prejudice to the contract right, if any, of the person so removed. Any Director who misses three (3) or more meetings per year may be subject to removal at the discretion of the Board.

Section XII. INDEMNIFICATION. Downtown Wheaton Association, Inc. will indemnify any Director, officer, employee, or agent who is threatened to be made a party to any suit or proceedings provided that the person acted in good faith and in the best interests of the Downtown Wheaton Association, Inc. and had no reasonable cause to believe the conduct complained of was unlawful. The Downtown Wheaton Association, Inc. shall purchase and maintain insurance providing this indemnity.

Section XIII. FINANCIAL AUTHORIZATION. The Downtown Wheaton Association, Inc. may establish a line of credit with an accredited financial institution to be used as an additional financial resource on an as needed basis. There shall be three (3) authorized signers on the line of credit account, including two (2) Directors and the Executive Director of the Downtown Wheaton Association, Inc.

Article V **Officers**

Section I. OFFICERS. The officers of the Downtown Wheaton Association, Inc. shall be the Officers of the Board of Directors, and shall include a President, one (1) or more Vice President, a Secretary, a Treasurer, Immediate Past President, and such assistants as may be elected or appointed by the Board of Directors. No person shall serve as President until said person has completed two (2) years of his or her term on the Board of Directors, unless otherwise voted in by the Board of Directors.

Section II. ELECTION AND TERM OF OFFICERS. The Officers shall be appointed annually by the voting members of the Board of Directors during the January ratification meeting. The Officers shall be selected from the Board of Directors. Each Officer shall hold office until his successor shall have been duly elected and shall have qualified or until he shall resign or shall have been removed in the manner hereinafter provided.

Section III. REMOVAL. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors when in its judgment the best interest of the Downtown Wheaton Association, Inc. would be served thereby, but such removal shall be without prejudice to the contract right, if any, of the person so removed. Such action requires a vote of two-thirds (2/3) of the entire Board of Directors. Any officer who misses three (3) or more meetings per year may be subject to removal at the discretion of the Board.

Section IV. VACANCIES. A vacancy in any office because of death, resignation, removal, or otherwise, may be filled by appointment by the Board of Directors, during a regular monthly meeting of the Directors, for the remainder of the term.

Section V. EXECUTIVE COMMITTEE. The Executive Committee of the Board of Directors shall be composed of the President, one (1) or more Vice President, Treasurer, Secretary, and the Immediate Past President.

PRESIDENT. The President shall be the principal executive officer of the Downtown Wheaton Association, Inc. and shall in general supervise and control all the business and affairs of the Downtown Wheaton Association, Inc. She or he shall preside at all meetings of the Members and of the Board of Directors and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

VICE PRESIDENT. In absence of the President or in the event of his or her inability or refusal to act, the Vice President shall perform the duties of the President and when so acting shall have all powers of and be subject to all restrictions upon the President.

SECRETARY. The Secretary shall: (a) keep the minutes of the Members and Board of Directors meetings; (b) see that all notices are given in accordance with the provisions of the by-laws; (c) be custodian of the Downtown Wheaton

Association, Inc.'s records in accordance with the provisions of these by-laws; (d) keep a record of the addresses of each Member which shall be furnished to the Secretary by such Member.

TREASURER. The Treasurer shall: (a) keep an accurate accounting of the Downtown Wheaton Association, Inc.'s funds; (b) in general perform all duties incident of Treasurer; (c) such other duties as may from time to time be assigned to her or him by the President or the Board of Directors.

IMMEDIATE PAST PRESIDENT. Immediate Past President shall serve a one (1) year term as a voting Member of the Board of Directors. The Immediate Past President continues to count toward his or her membership class as a voting member of the Board of Directors.

Article VI **Committees**

Section I. COMMITTEE ORGANIZATION. Committees shall be formed by resolution of the Board of Directors. The Board reserves the right to approve committee membership. One (1) Member of each committee shall be appointed Committee Chairperson at the determination of the Board of Directors.

Section II. TERM OF OFFICE. Each Member of a committee shall continue as such until the next ratification meeting of the Directors of the Downtown Wheaton Association, Inc. or until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such Member be removed from such committee, or unless such Member shall cease to qualify as a Member thereof.

Section III. VACANCIES. Vacancies in the Membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section IV. QUORUM. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of a quorum shall be the act of the committee.

Section V. RULES. Each committee may adopt rules for its own governance not inconsistent with these by-laws or with rules adopted by the Board of Directors.

Article VII **By-laws**

Section I. AMENDING THE BY-LAWS. These by-laws may be amended by a two-thirds (2/3) vote of the Board of Directors. Notification of any meeting at which the by-laws are to be amended must be made in writing to the Board of Directors and published

on the Downtown Wheaton Association, Inc.'s official website at least ten (10) days prior to the meeting.

Article VIII **Dissolution**

Section I. DISSOLUTION AND WITHDRAWAL. Downtown Wheaton Association, Inc. will be dissolved on the sixth (6th) anniversary of its date of incorporation. However, if the Special Service Area is continued, Downtown Wheaton Association shall be extended for a like term.

If the Special Service area is not extended, the legally available assets of Downtown Wheaton Association, Inc. will be distributed to the Members in the same proportion as their contributions. Contributions received from the City of Wheaton (if any should remain) will revert back to the City of Wheaton. If the Special Service area is not extended, the Board of Directors is responsible for winding down and concluding all activities of Downtown Wheaton Association, Inc.

