

**Elmira Downtown Development, Inc.**

**CONSTITUTION AND BY-LAWS**

**Established 1990**

**Amended: April 2007, March 2009, December 2011, January 2018**

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Established: 1990

Last Amended: \_\_\_\_\_, 2009

# **CONSTITUTION AND BY-LAWS OF ELMIRA DOWNTOWN DEVELOPMENT, INC.**

## **ARTICLE I. NAME, STATEMENT OF PURPOSE AND PRINCIPAL OFFICE**

### **Section 1. Name**

The name of this organization shall be "Elmira Downtown Development, Inc."

### **Section 2. Purposes and Powers**

The purposes of this not-for-profit corporation are:

- (a) To execute the responsibilities of a district management association as set forth in Section 980-m of the New York State General Municipal Law as amended from time to time;
- (b) To evaluate and select projects to receive funds from the New York Main Street Grant program and to ensure that such funds are expended in accordance with all state and local laws and in furtherance of the purposes of the New York Main Street Program;
- (c) To seek and administer additional funds from private and government sources for the purpose of revitalizing, improving and developing Elmira's downtown;
- (d) To operate a comprehensive Downtown Development program to include, but not be limited to, administration, marketing, special events, project development, public relations, and public improvements in any Special Assessment District or Business Improvement District as established by the City Council or the City of Elmira pursuant to Article 19-A of the New York State General Municipal Law or any other applicable federal, state or local law;
- (e) To enter into a contract or contracts with the City of Elmira to conduct any additional activities within such Special Assessment District or Business Improvement District for advancing the above purposes, and to accept, hold or administer any funds paid in connection with such contract or contracts; and
- (f) To do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof but not for the monetary profit or financial gain of its Members, Directors, or Officers, except as provided under Articles V and VII of the New York State Not-for Profit Corporation Law.

As a means of accomplishing the foregoing purposes, the Corporation shall have all the powers set forth in Section 202 of the Not-for-Profit Corporation Law of the State of New York, and in general, any powers which now are or hereafter may be conferred by law upon a corporation organized for the purposes herein set forth, or which are necessary or incidental to those powers, or conducive to the purposes of the Corporation.

### **Section 3. Offices**

The organization shall maintain a principal office in the City of Elmira, County of Chemung, State of New York.

## **ARTICLE II. MEMBERSHIP**

### **Section I. Classes of Voting Membership**

The Corporation has three (3) classes of voting membership and one (1) class of non-voting membership:

(a) The voting classes are composed of:

- (i.) All owners of record of real property located within the Elmira Business Improvement District (the "District").
- (ii.) All commercial tenants leasing space within the District.
- (iii.) All residential tenants leasing space within the District.

(b) The non-voting class may include others with an interest in the welfare of the District.

## Section 2. Annual Meeting

The annual meeting of the Membership shall be held in January, at a time designated by the Board of Directors, at the principal office of the Corporation or such place as the Board of Directors shall authorize. The meeting shall be for the purpose of electing Directors and for transacting any other business of the Corporation. A copy of notice of the annual meeting shall be mailed by the Secretary to each Member entitled to vote, postage prepaid, not less than ten (10) days and not more than fifty (50) days before the date of the meeting. Notice of the annual meeting may, at the discretion of the Secretary, be given by publication, in lieu of mailing, in accordance with Section 605 of the Not-for-Profit Corporation Law, as it may be amended, or any equivalent statute. Any and all notices of such meeting may be waived in writing by any Member.

## Section 3. Special Meetings

Special meetings of the Membership may be called by the Board of Directors or by the President and must be called by the President at the request in writing of ten percent (10%) of the Members in good standing. Notice of a special meeting, stating the purpose or purposes for which the meeting is called, shall be given by the Secretary by mailing, not less than ten (10) days and not more than fifty (50) days before the date of the meeting, postage prepaid, a copy of such notice, addressed to each Member entitled to vote at such meeting. Notice of a special meeting may, at the discretion of the President or Secretary, be given by publication, in lieu of mailing, in accordance with Section 605 of the Not-for-Profit Corporation Law, as it may be amended, or any equivalent statute. Any and all notices of such meeting may be waived by any Member in writing.

## Section 4. Voting

- (a) Members entitled to vote at meetings must do so in person or by signed proxy. Each Member has one vote except that a Member qualifying in more than one class of voting membership shall have one vote in each class in which the Member qualifies.
- (b) A quorum (which includes Members represented by proxy) shall consist of at least one tenth of the total number of votes entitled to be cast for the transaction of a particular item of business.
- (c) All matters, other than the election of Directors, shall be decided by vote of a majority of the Members present (whether in person or by proxy) and voting.
- (d) In electing Directors, property owners shall vote only for Directors to represent property owners, commercial tenants shall vote only for Directors to represent commercial tenants, and residential tenants shall vote only for Directors to represent residential tenants.

To allow Members access to program benefits while avoiding actual and perceived conflicts of interest, any Member shall withdraw from discussion of and voting on contracts and/or transactions in which such Member has a substantial financial interest.

## ARTICLE III. DIRECTORS

### Section 1. Number

The affairs and business of the Corporation, except as otherwise provided in the Certificate of Incorporation and by-laws, shall be managed by a Board of no less than Fifteen (15) Directors, one of whom shall be appointed by the Chief Executive Officer of the City of Elmira, one by the Chief Financial Officer of the City, and one by the City Council. Eight Directors shall be elected by Members who are property owners; three by Members who are commercial tenants, and one by Members who are residential tenants.

#### Section 2. How Elected.

At the Corporation's annual meeting, open elected board positions shall be filled by the candidate receiving the highest number of votes cast by the class of Members entitled to vote for such open position.

#### Section 3. Term of Office

All "elected" terms are for three (3) years. The Board shall elect one of their number as President, who shall preside at meetings of the Board and the Membership.

#### Section 4. Duties of Directors

The Board of Directors shall meet at least once in every season of the year and may adopt such rules for the conduct of their meetings and management of the Corporation as they deem proper, not inconsistent with these by-laws and the laws of the State of New York.

Each Director shall actively participate in Board and committee meetings. Active Directors are critical to the success of this Corporation. Therefore, A Director will be deemed to have resigned following three (3) unexcused absences from Director and/or committee meetings in any fiscal year of the Corporation. Records of Director: and committee meeting attendance shall be maintained for each fiscal year of the Corporation.

If a Director resigns, the position will be filled according to Section 9 of this Article.

#### Section 5. Directors' Meetings

Regular meetings of the Board of Directors shall be held immediately following the annual meeting of the Membership and at such other times as the Board of Directors may determine. Special meetings of the Board of Directors may be called by the President or the Secretary upon the written request of three (3) Directors.

#### Section 6. Notice of Special Meetings

Notice of special meetings of the Board of Directors shall be served by mail addressed to each Director at his/her last known address no less than five (5) days before the meeting. The notice shall include a statement of the business to be considered. No other business shall be contracted at any special meeting. Notice of special meetings may be waived in writing or by attending the meeting without protesting the lack of notice. Telephone notice of twenty-four (24) hours shall be adequate notice of a special meeting, provided the person calling speaks directly to the Director.

#### Section 7. Quorum

At any meeting of the Board of Directors, a majority of the Board of Directors shall constitute a quorum. However, fewer than a quorum shall have power to adjourn any meeting, from time to time, without notice other than announcement at the meeting, until a quorum is present.

#### Section 8. Voting

The vote of a majority of the Directors present, at any duly assembled meeting of the Board at which a quorum is present, shall be an act of the Board, except as may be otherwise specifically provided by law or herein.

Any action required or permitted to be taken by the Board of Directors or a committee thereof may be taken without a meeting if all Directors or committee members consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by Directors or committee members shall be filed with the minutes of the proceedings of the Board or committee.

To allow Directors access to program benefits while avoiding actual and perceived conflicts of interest, any Director shall withdraw from discussion of and voting on contracts and/or transactions in which such Director has a substantial financial interest. In particular, when the board is considering allocation of New York Main Street funds to improve the property of a Director, all selection procedures and standards must be rigorously observed, the interested Director may not participate in discussion of or voting on the allocation, and there must be a public disclosure in the Elmira Community that the Corporation is distributing funds to one of its Directors.

#### Section 9. Vacancies

Vacancies in the Board of Directors shall be filled by the vote of the remaining Directors. A Director so elected shall serve until the next annual meeting at which Directors are to be elected.

#### Section 10. Executive Director

The Board of Directors may employ an Executive Director to conduct the day to day activities of the Corporation. The Executive Director shall receive reasonable compensation as determined by the Board and will at all times serve at the sole discretion of the Board.

#### Section 11. Compensation

The Board of Directors shall serve without compensation.

### ARTICLE IV. OFFICERS

#### Section 1. Election of Officers

The Board of Directors shall elect, from among the Directors, a President and a Vice President, and shall also elect a Secretary and a Treasurer, neither of whom need be Directors of the Corporation. The Board may also appoint such other officers, none of whom need be a Director of the Corporation, as the Board or a duly authorized committee of the Board may from time to time determine. Any two (2) or more offices, except those of President and Secretary, may be held by the same person.

#### Section 2. President

The President shall be the chief executive officer of the Corporation and shall, if present, preside at all meetings of the Board of Directors and shall be charged with general supervision of the activities of the Board and its committees, subject to the direction of the Board of Directors. The President shall also be charged with the general supervision of the business affairs and property of the Corporation, subject to the direction of the Board of Directors, and shall have general supervision over its officers and agents. The President may do and perform all acts incident to the office of the President and shall be an ex-officio member of all duly constituted committees.

#### Section 3. Vice President

In the absence or inability of the President, the Vice President shall perform the functions and have the powers of the President. The Vice President shall have such other powers and perform such other duties as may from time to time be prescribed by the Board.

#### Section 4. Secretary

The Secretary shall:

- (a) Keep the minutes of all meetings of the Board and of the Members of the Corporation;
- (b) Assure that all notices of meetings of the Corporation are served appropriately;
- (c) Have custody of the seal of the Corporation and shall affix the same to documents when authorized to do so;
- (d) Be custodian of the records of the Corporation;
- (e) Monitor the membership records maintained by the Corporation's staff in such a manner as to assure current data is maintained for each Member including, but not limited to, the street address, mailing address, business name (if applicable), and date of membership. Such records will be available during normal business hours at the office of the Corporation subject to the inspection of any person duly authorized, as prescribed by law; and
- (f) Perform all other duties incident to the Office of Secretary as assigned by the Board of Directors from time to time.

#### Section 5. Treasurer

The Treasurer shall:

- (a) Serve as chairperson of the Finance Committee;
- (b) Prepare and present financial reports clearly describing the condition of the Corporation's finances;
- (c) Assure that the Corporation's current books of account of all its business and transactions are available at the Corporation's place of business for review at all reasonable times by the Board of Directors and any Director or Member upon application on reasonable notice;
- (d) Review the Corporation's financial statements and render a statement of the condition of the finances of the Corporation at each meeting of the Board of Directors if called upon to do so, and a full financial report at the annual meeting of the Membership;
- (e) Sign such checks or drafts as may be necessary for the conduct of the affairs of the Corporation, but the Board of Directors may authorize and/or require an additional officer or additional officers by resolution to sign such checks; and
- (f) Perform all other duties customary to the office of Treasurer and such other duties incident to the office of Treasurer as assigned by the Board of Directors.

#### Section 6. Duties of Offices May be Delegated.

In case of the absence of any officer of the Corporation or for any other reason the Board deems sufficient, it may, except as otherwise provided in these By-Laws, temporarily delegate the powers or duties of an office to any other officer.

#### Section 7. Vacancies, How Filled

Vacancy in any office shall be filled, without undue delay, by the Board of Directors at its next regular meeting or at a special meeting called for that purpose, except as otherwise provided for in the Certificate of Incorporation.

### ARTICLE V. COMMITTEES

#### Section 1. Committees

Committees perform detailed work related to their specific purposes and are the foundation of the Corporation. Active participation is necessary to ensure that day-to-day tasks as well as major projects/events are accomplished in a meaningful way.

Current The Board of Directors shall appoint the following committees:

- (a) Executive/Nominating Committee
- (b) Downtown Enhancement Committee
- (c) Special Events Committee(s) as needed
- (d) Merchant Liaison Committee
- (e) Finance Committee

(f) Public Relations/Communications Committee

Proposed

Elmira Downtown Development, Inc. Committees:

1. Marketing Committee
  - a. Sub-Committee
    - i. Merchant Liaison
2. Events Committee
  - a. Sub-Committees:
    - (a) Elmira Street Painting Festival
    - (b) Arts and Culture Projects
    - (c) Taste of Downtown
    - (d) Alive After Five
    - (e) Jazz Festival
    - (f) Wisner Market
    - (g) Downtown Cleanup
    - (h) Annual Meeting
    - (i) Holiday Parade
3. Partnership Committee
4. Executive / Nominating Committee:
5. Downtown Enhancement Committee:
6. Finance Committee:

The Chairs of all committees shall be chosen by the committee members from among their number with the exception of the Executive/Nominating Committee. The Chair of the Executive/Nominating Committee must be elected by the Board of Directors. The Board may appoint, from time to time, any other committee it considers necessary or desirable.

Section 2. Responsibilities of the Committees

The responsibilities of each of the committees shall be determined by the Board from time to time, and each committee other than the Executive Committee shall act in an advisory capacity only, and all actions and decisions of such other committees shall be subject to prior approval by the Board of Directors.

To allow committee members access to program benefits while avoiding actual and perceived conflicts of interest, any committee member shall withdraw from discussion of and voting on contracts and/or transactions in which such committee member has a substantial financial interest. In particular, when a committee is considering allocation of New York Main Street funds to improve the property of a Director, all selection procedures and standards must be rigorously observed, the interested committee member may not participate in discussion of or voting on the allocation, and there must be a public disclosure in the Elmira Community that the Corporation is distributing funds to one of its Directors.

The Executive/Nominating Committee shall have the same authority as the Board of Directors, except that it shall have no authority as to the following matters:

- (1) The filling of vacancies in the Board of Directors or in any committee,
- (2) The amendment or repeal of the by-laws or the adoption of new by-laws, and
- (3) The amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable.

Meetings of the Executive/Nominating Committee may be called by the President or Vice President on notice of at least twelve hours by telephone. The person calling the meeting shall make every reasonable effort to give notice of it to each committee member.

A majority of the members of the committee constitutes a quorum. The vote of a majority of the committee members present, at any duly assembled meeting of the committee at which a quorum is present, shall be an act of the committee, except as may be otherwise specifically provided by law or herein. Attendance at a meeting of the committee constitutes waiver of notice.



## ARTICLE VI. FISCAL YEAR, BUDGET AND FINANCES

### Section 1. Fiscal Year

The fiscal year of the Corporation shall end on December 31<sup>st</sup>.

### Section 2. Budget

It shall be the duty of the Executive Director in tandem with the Finance Committee to prepare the Corporation's budget for the fiscal year and to submit the same to the Board of Directors for approval by October 1<sup>st</sup> annually or by a budget deadline announced by the City of Elmira, whichever is sooner. The Board of Directors shall have the power to authorize expenditures and approve invoices for payment.

### Section 3. Authority

The Board may authorize the Executive Director to approve budgeted expenses to a determined limit. Checks or drafts for such approved expenses must be signed by the Executive Director and the Treasurer or such other Director as has been authorized by resolution of the Board of Directors to approve such expenses. Budgeted expenditures in excess of the determined limit shall require authorization by two Directors who have been authorized to approve such expenses pursuant to a resolution of the Board of Directors. Expenses shall be deemed authorized if the required parties, pursuant to authorization by the Board of Directors, have signed checks or drafts to pay for budgeted expenses. The Treasurer/Finance Committee will review unbudgeted expenses and present a recommendation to the Board for approval.

## ARTICLE VII. APPLICABLE RULES AND REGULATIONS

### Section 1. Contracts

The contracts of the Corporation will be subject to all applicable provisions of law relating to the letting of contracts by the City.

## ARTICLE VIII. AMENDMENTS

This Constitution and any of these By-Laws may be amended or repealed as provided in Section 602 of the New York Not-for-Profit Corporation Law, as it may be amended, or any equivalent statute.

## ARTICLE IX. DISSOLUTION

The dissolution or other termination of the Corporation shall be in accordance with Article X of the New York Not-for-Profit Corporation Law, or any equivalent section which may then be in effect; and upon dissolution the assets of the Corporation shall be disposed of in accordance with the same section.

## REFERENCE SECTION

### Certificate of Incorporation

#### Applicable Laws & Regulations:

**Go to <http://public.leginfo.state.ny.us/menugetf.cgi> for current information re:**

- New York State General Municipal Law – Section 980-m;
- New York State Not-For-Profit Corporation Law – Section 202; Section 602; Section 605

# BUSINESS IMPROVEMENT DISTRICT MAP

