

**Bylaws of the  
Downtown Business and Professional Association**

A non-profit corporation duly organized under the laws of the State of North Dakota.

**ARTICLE I. NAME OF ORGANIZATION**

The name of this 501(c)(6) non-profit membership organization shall be the Downtown Business and Professional Association, Inc. (hereinafter “DBPA”).

**ARTICLE II. MISSION, GOALS, & VALUES**

**Section 1. Mission**

The Minot DBPA is organized for the purpose of advocating for and supporting Minot’s central business district as the region’s center of commerce, culture, and civics.

**Section 2. Organizational Goals**

We, the DBPA, endeavor to build and maintain an organization that encompasses the following:

- a. Financial Sustainability, Independence, & Resilience
- b. A Culture that Inspires, Creates, & Celebrates
- c. A Professional, Efficient, Always-Improving Organization
- d. Transparency in Intention & Action

**Section 3. Organizational Values**

As we take up the work of fulfilling our organizational mission, it should be self-evident that the DBPA and our members believe in, support, and live the following:

- e. A Fair, Open, Competitive, & Entrepreneurial-Focused Business Environment
- f. A Vibrant, People-Centric Center of Commerce, Culture, & Civics
- g. Respect & Discretion During Adversity and Disagreement
- h. A Complete and Evolving District Diverse in Color, Creed, Size, Age, Ability, & Thought
- i. Environmental Stewardship

**ARTICLE III. MEMBERSHIP**

**Section 1. Eligibility for Membership**

All businesses, organizations, and individuals who support the DBPA Mission and Organizational Goals and Values are eligible for membership.

**Section 2. Annual Dues & Standing Member Categories**

The Board of Directors shall from time to time set the categories and rates of membership dues through resolution. For purposes of ensuring critical Board of Director representation, standing membership categories shall include Retail Members, Food & Beverage Members, Property Owner/Developer Members, and Investor Members.

### **Section 3. Rights of Members**

Each member shall be eligible to appoint one voting representative to cast the member's vote in association elections.

### **Section 4. Resignation and Termination**

Any member may resign by filing a written resignation with the secretary. Resignation shall not relieve a member of unpaid dues, or other charges previously accrued. A member can have their membership terminated by a majority vote of the Board of Directors.

### **Section 5. Non-voting Membership**

The Board of Directors shall have the authority to establish and define non-voting categories of membership.

## **ARTICLE IV. MEETINGS OF MEMBERS**

### **Section 1. Regular Meetings**

Regular meetings of the members shall be held quarterly, at a time and place designated by the membership or the President of the Board of Directors.

### **Section 2. Annual Meetings**

An annual meeting of the members shall take place in the month of January, the specific date, time and location of which will be designated by the President of the Board of Directors. At the annual meeting the members shall elect directors, receive reports on the activities of the association, and set the dates for the upcoming years' membership meetings.

### **Section 3. Special Meetings**

Special meetings may be called by the President, any two officers, or a simple majority of the Board of Directors. A petition signed by five percent (5%) of voting members may also call a special meeting.

### **Section 4 Notice of Meetings**

Notice of special membership meetings shall be given by email and website notification not less than two (2) days prior to the meeting.

### **Section 5. Quorum**

A quorum for a meeting of the members shall consist of at least ten percent (10)% of the active membership.

### **Section 6. Voting**

All issues to be voted on shall be decided by a simple majority of those present at the meeting in which the vote takes place.

## **ARTICLE V. BOARD OF DIRECTORS**

### **Section 1. General Powers**

The affairs of the DBPA shall be managed by its Board of Directors. The Board of Directors shall have control of and be responsible for the management of the affairs and property of the DBPA.

### **Section 2. Number & Officers, Tenure, Requirements, and Qualifications**

The number of Directors shall be fixed from time-to-time by the Directors but shall consist of no less than five (5) and nor more than nine (9) Directors including the following officers: the President, the Vice-President, the Secretary, and the Treasurer.

The Board of Directors shall include one Director from each of the Standing Member Categories: Retail, Food & Beverage, Property Owner/Developer, and Investor. Members from each respective category shall put forward a Director through either election by like members or appointment.

Remaining at-large Board of Director positions shall be elected by the membership at the Annual Membership Meeting or lacking candidates for election, appointed by the Board of Directors. Nominations for at-large Board of Director positions shall be taken at the annual meeting; Election outcomes shall be determined by the candidate receiving the majority vote of members present at the annual meeting.

The members of the Board of Directors shall, upon election or appointment, immediately enter upon the performance of their duties and shall continue in office until their successors shall be duly elected or appointed and qualified.

No two members of the Board of Directors related by blood or marriage/domestic partnership within the second degree of consanguinity or affinity may serve on the Board of Directors at the same time.

Each member of the Board of Directors shall be a member of the DBPA whose membership dues are paid in full and shall hold office for up to two (2) consecutive 4-year terms if elected by the membership or appointed to the role. Director terms shall be staggered so that at the time

of each annual meeting, the terms of approximately one-fourth (1/4) of all members of the Board of Directors shall expire.

Each member of the Board of Directors shall attend at least nine (9) monthly meetings of the Board per year.

### **Section 3. Regular Meetings**

The Board of Directors may provide by resolution the time and place, for the holding of regular meetings of the Board. Email notice of these meetings shall be sent to all members of the Board of Directors no less than two (2) days, prior to the meeting date.

### **Section 4. Special Meetings**

Special meetings of the Board of Directors may be called by or at the request of the President or any two members of the Board of Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any location, as the place for holding any special meeting of the Board called by them.

### **Section 5. Notice**

Notice of any special meeting of the Board of Directors shall be given at least two (2) days in advance of the meeting by telephone, facsimile or electronic methods or by written notice. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these by-laws.

### **Section 6. Quorum**

The presence, in person or virtually of a majority of current members of the Board of Directors shall be necessary at any meeting to constitute a quorum to transact business, but a lesser number shall have power to adjourn to a specified later date without notice. The act of a majority of the members of the Board of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these by-laws.

### **Section 7. Forfeiture**

Any member of the Board of Directors who fails to fulfill any of his or her requirements as set forth in Section 2 of this Article shall automatically forfeit his or her seat on the Board. The Secretary shall notify the Director in writing that his or her seat has been declared vacant, and

the Board of Directors may forthwith immediately proceed to fill the vacancy. Members of the Board of Directors who are removed for failure to meet any or all of the requirements of Section 2 of this Article are not entitled to vote at the annual meeting and are not entitled to the procedure outlined in Section 14 of this Article in these by-laws.

### **Section 8. Vacancies**

Whenever any vacancy occurs in the Board of Directors it shall be filled without undue delay by a majority vote of the remaining members of the Board of Directors at a regular meeting. Vacancies may be created and filled according to specific methods approved by the Board of Directors.

### **Section 9. Compensation**

Members of the Board of Directors shall not receive any compensation for their services as Directors.

### **Section 10. Informal Action by Directors**

Any action required by law to be taken at a meeting of the Directors, or any action which may be taken at a meeting of Directors, may be taken without a meeting if a consent in writing or email, setting forth the action so taken, is approved by a majority of the Directors in writing or email. Actions taken outside of regular meetings shall be included as a review agenda item at the next Director meeting.

### **Section 11. Confidentiality**

Directors shall not discuss or disclose information about the DBPA or its activities to any person or entity unless such information is already a matter of public knowledge, such person or entity has a need to know, or the disclosure of such information is in furtherance of the DBPAs' purposes, or can reasonably be expected to benefit the DBPA. Directors shall use discretion and good business judgment in discussing the affairs of the DBPA with third parties. Without limiting the foregoing, Directors may discuss upcoming fundraisers and the purposes and functions of the DBPA, including but not limited to accounts on deposit in financial institutions.

Each Director shall execute a confidentiality agreement consistent herewith upon being voted onto and accepting appointment to the Board of Directors.

### **Section 12. Advisory Council**

An Advisory Council may be created whose members shall be elected by the members of the Board of Directors annually but who shall have no duties, voting privileges, nor obligations for attendance at regular meetings of the Board. Advisory Council members may attend said meetings at the invitation of a member of the Board of Directors. Members of the Advisory

Council shall possess the desire to serve the community and support the work of the DBPA by providing expertise and professional knowledge. Members of the Advisory Council shall comply with the confidentiality policy set forth herein and shall sign a confidentiality agreement consistent therewith upon being voted onto and accepting appointment to the Advisory Council.

### **Section 13. Parliamentary Procedure**

Any question concerning parliamentary procedure at meetings shall be determined by the President by reference to Robert's Rules of Order.

### **Section 14. Removal.**

Any member of the Board of Directors or members of the Advisory Council may be removed with or without cause, at any time, by vote of three-quarters (3/4) of the members of the Board of Directors if in their judgment the best interest of the DBPA would be served thereby. Each member of the Board of Directors must receive written notice of the proposed removal at least ten (10) days in advance of the proposed action. An officer who has been removed as a member of the Board of Directors shall automatically be removed from office.

Members of the Board of Directors who are removed for failure to meet the minimum requirements in Section 2 of this Article in these by-laws automatically forfeit their positions on the Board pursuant to Section 7 of this Article, and are not entitled to the removal procedure outlined in Section 14 of this Article.

## **ARTICLE VI. OFFICERS**

The officers of this Board shall be the President, Vice-President, Secretary and Treasurer. All officers must have the status of active members of the Board.

### **Section 1. President**

The President shall preside at all meetings of the membership. The President shall have the following duties:

- a. He/She shall preside at all meetings of the Executive Committee.
- b. He/She shall have general and active management of the business of this Advisory Board.
- c. He/She shall see that all orders and resolutions of the Advisory Board are brought to the Advisory Board.
- d. He/She shall have general superintendence and direction of all other officers of this corporation and see that their duties are properly performed.

- e. He/She shall submit a report of the operations of the program for the fiscal year to the Advisory Board and members at their annual meetings, and from time to time, shall report to the Board all matters that may affect this program.
- f. He/She shall be Ex-officio member of all standing committees and shall have the power and duties usually vested in the office of the President.

## **Section 2. Vice-President**

The Vice-President shall be vested with all the powers and shall perform all the duties of the President during the absence of the latter. The Vice-Presidents duties are:

- a. He/She shall have the duty of chairing their perspective committee and such other duties as may, from time to time, be determined by the Advisory Board.

## **Section 3. Secretary**

The Secretary shall attend all meetings of the Advisory Board and of the Executive Committee, and all meetings of members, and assisted by a staff member, will act as a clerk thereof. The Secretary's duties shall consist of:

- a. He/She shall record all votes and minutes of all proceedings in a book to be kept for that purpose. He/She in concert with the President shall make the arrangements for all meetings of the Advisory Board, including the annual meeting of the organization.
- b. Assisted by a staff member, he/she shall send notices of all meetings to the members of the Advisory Board and shall take reservations for the meetings.
- c. He/She shall perform all official correspondence from the Advisory Board as may be prescribed by the Advisory Board or the President.

## **Section 4. Treasurer**

The Treasures duties shall be:

- a. He/She shall submit for the Finance and Fund Development Committee approval of all expenditures of funds raised by the Advisory Board, proposed capital expenditures (equipment and furniture) , by the staff of the agency.
- b. He/She shall present a complete and accurate report of the finances raised by this Advisory Board and also the Paul Smith Memorial Fund at each meeting of the members, or at any other time upon request to the Advisory Board.
- c. He/She shall have the right of inspection of the funds resting with the Big Brother/Big Sister Program including budgets and subsequent audit reports.
- d. It shall be the duty of the Treasurer to assist in direct audits of the funds of the program according to funding source guidelines and generally accepted accounting principles.

- e. He/She shall perform such other duties as may be prescribed by the Advisory Board or the President under whose supervision he/she shall be.

### **Section 5. Election of Officers**

The officers of the DBPA shall be elected by the Board from among their number at the first regular meeting of the board following the annual membership meeting. Terms of DBPA Officers shall be one (1) year.

Officers of the Executive Committee shall be eligible to succeed themselves in their respective offices for two (2) terms only.

### **Section 6. Removal of Officer**

The Advisory Board with the concurrence of majority of the members voting at the meeting may remove any officer of the Board of Directors and elect a successor for the unexpired term. No officer of the Board of Directors shall be expelled without an opportunity to be heard and notice of such motion of expulsion shall be given to the member in writing ten (10) days prior to the meeting at which motion shall be presented, setting forth the reasons of the Board for such expulsion.

### **Section 7. Vacancies**

The Nominating Committee shall also be responsible for nominating persons to fill vacancies which occur between annual meetings, including those of officers. Nominations shall be sent in writing to members of the Advisory Board at least two (2) weeks prior to the next meeting at which the election will be held. The persons so elected shall hold membership or office for the unexpired term in respect of which such vacancy occurred.

## **ARTICLE VII. COMMITTEES**

### **Section 1. Committee Formation**

The board may create committees as needed, such as finance, fundraising, events, or for the standing member categories e.g., Retail, Food & Beverage, Property Owner/Developer, and Investor. The board chair appoints all committee chairs.

### **Section 2. Executive Committee**

The four officers serve as the members of the Executive Committee. Except for the power to amend the Articles of Incorporation and Bylaws, the Executive Committee shall have all the powers and authority of the board of directors in the intervals between meetings of the board of directors, and is subject to the direction and control of the full board.

### **Section 3. Finance Committee**

If a Finance Committee is formed, the Treasurer shall be the chair, the committee shall include three other board members. The Finance Committee is responsible for developing and reviewing fiscal procedures, fundraising plans, and the annual budget with staff and other board members. The board must approve the budget and all expenditures must be within budget. Any major change in the budget must be approved by the board or the Executive Committee. The fiscal year shall be the calendar year. Annual reports are required to be submitted to the board showing income, expenditures, and pending income. The financial records of the organization are public information and shall be made available to the membership, board members, and the public.

## **ARTICLE VIII. EXECUTIVE OFFICERS**

### **Section 1: CEO/COO**

The Board of Directors may hire a Chief Executive Officer and/or Chief Operating Officer who shall serve at the will of the Board. The Executive Officers shall have immediate and overall supervision of the operations of the DBPA, and shall direct the day-to-day business of the DBPA, maintain the properties of the DBPA, hire, discharge, and determine the salaries and other compensation of all staff members under the Executive Officers supervision, and perform such additional duties as may be directed by the Executive Committee or the Board of Directors. No officer, Executive Committee member or member of the Board of Directors may individually instruct the Executive Officers or any other employee. The Executive Officers shall make such reports at the Board and Executive Committee meetings as shall be required by the President or the Board. The Executive Officers shall be ad-hoc members of all committees.

The Executive Officers may not be related by blood or marriage/domestic partnership within the second degree of consanguinity or affinity to any member of the Board of Directors or Advisory Council. The Executive Officers may be hired at any meeting of the Board of Directors by a majority vote and shall serve until removed by the Board of Directors upon an affirmative vote of three-quarters (3/4) of the members present at any meeting of the Board Directors. Such removal may be with or without cause. Nothing herein shall confer any compensation or other rights on any Executive Officers, who shall remain an employee terminable at will, as provided in this Section.

## **ARTICLE IX. – CONFLICT OF INTEREST & COMPENSATION**

### **Section 1: Purpose**

The purpose of the conflict of interest policy is to protect this tax-exempt organization's (DBPA) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Organization or might result in a possible excess benefit

transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

## **Section 2: Definitions**

- a. Interested Person  
Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.
- b. Financial Interest  
A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:
  1. An ownership or investment interest in any entity with which the DBPA has a transaction or arrangement,
  2. A compensation arrangement with the DBPA or with any entity or individual with which the DBPA has a transaction or arrangement, or
  3. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the DBPA is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

## **Section 3. Procedures**

- a. Duty to Disclose. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.
- b. Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.
- c. Procedures for Addressing the Conflict of Interest
  1. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

2. The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
  3. After exercising due diligence, the governing board or committee shall determine whether the DBPA can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
  4. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the DBPA's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.
- d. Violations of the Conflicts of Interest Policy
1. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
  2. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

#### **Section 4. Records of Proceedings**

The minutes of the governing board and all committees with board delegated powers shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

#### **Section 5. Compensation**

- a. A voting member of the governing board who receives compensation, directly or indirectly, from the DBPA for services is precluded from voting on matters pertaining to that member's compensation.

- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the DBPOA for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

### **Section 6. Annual Statements**

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a. Has received a copy of the conflicts of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands the DBPA is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

### **Section 7. Periodic Reviews**

To ensure the DBPA operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the DBPA's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

### **Section 8. Use of Outside Experts**

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

## **ARTICLE X. INDEMNIFICATION**

### **Section 1. General**

To the full extent authorized under the laws of the North Dakota, the DBPA shall indemnify any director, officer, employee, or agent, or former member, director, officer, employee, or agent of the corporation, or any person who may have served at the DBPA's request as a director or officer of another corporation (each of the foregoing members, directors, officers, employees,

agents, and persons is referred to in this Article individually as an “indemnitee”), against expenses actually and necessarily incurred by such indemnitee in connection with the defense of any action, suit, or proceeding in which that indemnitee is made a party by reason of being or having been such member, director, officer, employee, or agent, except in relation to matters as to which that indemnitee shall have been adjudged in such action, suit, or proceeding to be liable for negligence or misconduct in the performance of a duty. The foregoing indemnification shall not be deemed exclusive of any other rights to which an indemnitee may be entitled under any bylaw, agreement, resolution of the Board of Directors, or otherwise.

### **Section 2. Expenses**

Expenses (including reasonable attorneys’ fees) incurred in defending a civil or criminal action, suit, or proceeding may be paid by the DBPA in advance of the final disposition of such action, suit, or proceeding, if authorized by the Board of Directors, upon receipt of an undertaking by or on behalf of the indemnitee to repay such amount if it shall ultimately be determined that such indemnitee is not entitled to be indemnified hereunder.

### **Section 3. Insurance**

The corporation may purchase and maintain insurance on behalf of any person who is or was a member, director, officer, employee, or agent against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person’s status as such, whether or not the corporation would have the power or obligation to indemnify such person against such liability under this Article.

## **ARTICLE XI. BOOKS AND RECORDS**

The corporation shall keep complete books and records of account and minutes of the proceedings of the Board of Directors.

## **ARTICLE XII. AMENDMENTS**

### **Section 1. Articles of Incorporation**

The Articles may be amended in any manner at any regular or special meeting of the Board of Directors, provided that specific written notice of the proposed amendment of the Articles setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each director at least three days in advance of such a meeting if delivered personally, by facsimile, or by email or at least five days if delivered by mail. As required by the Articles, any amendment to Article III or Article VI of the Articles shall require the affirmative vote of all directors then in office. All other amendments of the Articles shall require the affirmative vote of a majority of directors then in office.

## **Section 2. Bylaws**

The Board of Directors may amend these Bylaws by majority vote at any regular or special meeting. Written notice setting forth the proposed amendment or summary of the changes to be effected thereby shall be given to each director within the time and the manner provided for the giving of notice of meetings of directors.

## **ARTICLE XIII. WAIVER OF NOTICE**

Whenever any notice is required to be given under the provisions of the North Dakota nonprofit Corporation Act or under the provisions of the Articles of Incorporation or the Bylaws of the Organization, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to giving of such notice.

## **ADOPTION OF BYLAWS**

We, the undersigned, are all of the initial directors or incorporators of this corporation, and we consent to, and hereby do, adopt the foregoing Bylaws, consisting of the ## preceding pages, as the Bylaws of this corporation.

ADOPTED AND APPROVED by the Board of Directors on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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FirstName LastName, President - Nonprofit, Inc.

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ATTEST: FirstName LastName, Secretary - Nonprofit, Inc.