The Community Foundation of Harrisonburg & Rockingham County
Gift Development and Acceptance Policies

1. PURPOSE OF GIFT ACCEPTANCE POLICIES

These gift acceptance policies and guidelines are set forth to:

- Protect the interests of donors of charitable gifts to the Foundation.
- Protect the interests of the Foundation.
- Delineate the administrative responsibilities of the Foundation with respect to charitable gifts.

These guidelines cannot embrace all areas in which judgment must be exercised. The Foundation staff and board members must exercise sound judgment in handling situations not specifically covered. In view of the importance of charitable gifts to the Foundation and the community-at-large, those charged with attracting and maintaining them must be given wide latitude and, at the same time, must insure that the dignity and integrity of the Foundation, the good of the community and the best interest of its donors be maintained.

II. FOUNDATION RESPONSIBILITIES

Foundation staff will disclose to all prospective donors certain important benefits and liabilities that reasonably could be expected to influence the donor's decision to make a gift to the Foundation. In particular, donors will be made aware of:

- the irrevocability of a gift,
- prohibitions on certain donor restrictions, and
- items subject to external conditions not controlled by the Foundation (market value, investment return and income yield for example).

The Foundation will not provide specific tax, financial or legal advice to a donor. The role of the Foundation staff is to inform, guide and assist the donor in fulfilling his or her philanthropic wishes but never to pressure or unduly influence a donor's decision.

III. ROLE OF THE BOARD OF DIRECTORS

The Board of Directors (the "Board") is responsible for policy-making and oversight of the Foundation's operations and may amend or supplement these policies and guidelines at any time.

IV. VARIANCE POWER

Federal income tax regulations require that a community foundation's governing instruments include a "variance power." The variance power contained in the bylaws of the Foundation states that the Board can modify any restriction or condition on the distribution of funds for any specified charitable purpose or to specified organizations if, in the sole judgment of the Board, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community.

V. FUNDS

The Foundation has developed several types of funds to help donors carry out their philanthropy and encourage donors to help the Foundation accomplish its mission. These funds (and their establishment) are subject to policies approved by the Board of Directors. A donor may contribute to any existing fund of the Foundation or may wish to establish a new fund of one of the types described below. As a general policy, the Foundation will establish a separate fund upon the donor's request subject to a minimum contribution value established by the Foundation. The current suggested minimum needed to create a fund is $5,000.00. However, The Foundation may agree to establish a fund with less.

All funds described in this section below are governed by a written fund agreement between the Foundation and the donor as well as applicable state and federal laws.

Following is a brief description of the types of funds available through the Foundation.

1. Unrestricted Funds

Unrestricted funds are those funds where the donor does not designate any particular charitable purpose or charitable organization. The Board of Directors determines how distributions from discretionary funds are used.

Gifts received that are unrestricted by the donor of $9,999 or less will be placed in TCF operating fund. Gifts received that are unrestricted by the donor of $10,000 or greater shall be designated by the Board of Directors.

2. Field of Interest Funds

Field of interest funds are those funds where the donor expresses a preference that the fund be used for a specific charitable purpose, without designating the recipient organizations or programs through which such charitable purposes shall be served. Examples of field of interest funds include funds designated to assist children and youth, to support environmental or beautification efforts, to promote the arts and culture.

3. Donor-Advised Funds

Individuals or organizations may establish donor-advised funds where they or persons they designate retain the right to offer grant recommendations to the Foundation’s Board. The Board has final authority to determine distributions from donor-advised funds.

When the fund is set up, donors may specify that once advising ceases, the fund will either become a discretionary or a field of interest fund (they may name the field of interest). This charitable use will become effective upon the death, resignation or incapacitation of the final advisor of a donor-advised fund. If the ultimate charitable use of the fund's distributable income is unspecified when advising ceases, the fund will become an unrestricted fund.

4. Designated Funds

Designated funds are earmarked by the donor for a particular charitable organization or organizations. All grants made from designated funds are made to or for the use of the designated recipient organization.

5. Agency funds/endowments

Agency funds/endowments are established by non-profit charitable organizations to provide themselves a means of saving or for a perpetual stream of annual grant income. Agencies wishing to transfer funds to the Foundation to establish an agency or endowed fund must submit a resolution from their Board of Directors stating that the majority of the members approved the action.

6. Scholarship Funds

Scholarship funds are dedicated to providing grants for educational purposes. They may be restricted in several ways, such as for use at a designated educational institution or for a particular course of study.

A donor establishing a scholarship fund must formulate a specific written set of guidelines under which such scholarship will operate. Staff will assist with this process.

VI. SUPPORTING ORGANIZATIONS

A supporting organization is a grant-making organization that avoids the burdens of private foundation tax status by being operated, supervised, or controlled by, or in connection with, the Foundation. Supporting organizations generally operate somewhat independently of the Foundation, and they must operate exclusively for the benefit of the Foundation.

VII. SPECIAL FUNDS

Special purpose funds The Foundation will consider establishing funds for special purposes that further the Foundation’s mission. This type of fund may be established to hold funds for a specific public purpose (to pay for a monument or celebration, for example). Generally, they are limited in duration.

Focus Funds The Foundation may establish funds aimed at building a permanent endowment to focus on a specific concern or objective. Examples of focus funds include affiliate funds (relating to a particular community), women’s funds, catalyst funds (encouraging philanthropy among younger people), etc.

Administrative Endowment The administrative endowment helps the Foundation cover its present and future operating costs. The Foundation provides many more services to the community than fund management, for which it receives a fee. The Administrative Endowment Fund helps assure the Foundation will be able to continue its valuable role in our community by encouraging citizens to contribute to its future strength and stability.

VIII. BUILD-A-FUND

The minimum contribution needed to begin a fund may be waived in circumstances where it is deemed appropriate, such as when the donor commits to make additional gifts to the fund within a reasonable period of time. The fund will be built through contributions until it reaches the current minimum level required.

AUTHORITY AND PROCEDURES FOR ACCEPTING GIFTS

I. COMMITTEE ROLES AND RESPONSIBILITIES

The Executive and Development Committees have specific responsibilities with respect to Development. The Executive and Development Committees will assist in developing fund-raising plans and goals for the Foundation and will actively participate and carry out the Foundation's development efforts. In addition, the responsibilities of the Executive Committee include periodic review and recommendations of development and gift acceptance policies and guidelines that are consistent with established policies and guidelines for Board approval.

II. GIFT ACCEPTANCE PROCEDURES

The Executive Director has the overall authority to handle inquiries, negotiate with donors, assemble documentation, and retain expert technical consultants on behalf of the Foundation. The Executive Director is authorized to accept all gifts and bequests on behalf of the Foundation unless one or more of the following circumstances apply:

1. The gift or bequest includes a restriction or suggestion regarding the Foundation's use of funds that would raise legal, ethical, policy or practical concerns for the Foundation;
2. The gift or bequest includes instructions on investment allocation of gift assets or designation of investment manager of such assets; or
3. In the judgment of the Executive Director, there are other risks or concerns that should be reviewed by the Committee.

1. Procedure for review of gifts

When the Executive Director, Chair and/or the Board determine that a potential gift requires further review, the Chair will present the terms of the gift to the Executive Committee. Presentation to the Committee will take the form determined most useful by the

Executive Director, e.g. phone call, FAX, email or written communication to all available Committee members depending upon the complexity of the gift and the issues involved.

If one or more members of the Executive Committee believes that a gift or bequest should not be accepted, or that the full Board of Directors should review it, the issue will be referred to the full Board of Directors for consideration at its next regular meeting or, if time considerations make it necessary, at a special meeting. Results of the review process will be presented to the Board of Directors at its next regularly scheduled meeting. It will not require further approval by the Board of Directors, except in the case of Designated Funds where the Board will have final approval prior to a fund's acceptance as a component fund.

Gifts requiring Executive Committee review will be handled promptly. If a gift is not accepted, the donor will be notified in writing by staff promptly. All gift reviews will be handled with confidentiality.

Gifts requiring immediate action (e.g., gifts on December 31, or pending sale of property) may be exempted from full Committee review if, in the judgment of the Executive Director, in consultation with the Board Chair, that gift may be accepted without significant reservations or in any way jeopardizing the Foundation's tax exempt status.

The Chair may, in an emergency or for other good reason, modify the procedure set forth in this policy for a particular gift or bequest, but shall do so only after reasonable consultation with other members of the Executive Committee and shall report the modification to the full Board of Directors at its next regular meeting.

POLICIES AND GUIDELINES

I. CRITERIA

In reviewing gifts to the Foundation, staff and/or the Executive Committee will consider the following criteria:

- Is there charitable intent and will the community ultimately benefit?
- Is the nature of any restrictions within our expertise or policies?
- Is the gift permanent, or in the case of a non-permanent fund, how long will the fund remain with the Foundation?
- Will the property require ongoing management? What are the projected costs of managing the gift asset? Who will bear the expense? Who will bear the liability?
- Can the property be converted into an income-producing asset?
- Does the property expose the Foundation to unreasonable risk or burden, either in terms of dollars or staff/professional time?

II. GIFTS THAT [GENERALLY] DO NOT REQUIRE SPECIAL REVIEW

Gifts of cash, publicly traded securities or paid up life insurance policies may be accepted by the Executive Director without prior approval of the Executive Committee.

1. Cash

The Foundation will accept an outright gift of cash of any amount, although gifts to establish a separate fund at the Foundation must meet the minimum funding requirements set by the Board. A donor may establish a fund in a single transaction, or agree to build to the minimum over whatever period of time is mutually acceptable to the donor and the Foundation.

2. Publicly-traded Securities

The Foundation will accept gifts of publicly traded stocks and bonds at fair market values as determined under Internal Revenue Service rules. As a general rule, gifts of publicly traded securities will be sold as soon as possible, and the fund the donor established will be credited with the proceeds from the sale, after commissions and expenses, if any.

3. Life Insurance Policies

The Foundation will encourage outright gifts of life insurance.

The transfer of existing policies should be absolute with full ownership vested in the Foundation, which will have the right to surrender the policy if it so desires. The policy should have a net cash value with no outstanding loans. When applicable, the donor should agree to contribute on an annual basis the amount necessary to maintain the policy in force.

4. Gifts of Retirement Plans or other "Income with Respect to Decedent" (IRD) Assets

The Foundation may be named as primary, secondary, partial or contingent beneficiary of an IRA and/or a retirement plan. The retirement plan administrator should be consulted to determine the proper designation procedure. The underlying assets will determine the level of gift acceptance review.

Gifts of U.S. savings bonds are generally acceptable without special review.

III. GIFTS THAT MAY REQUIRE SPECIAL REVIEW

The following gifts may need to be considered by the Executive Committee, in consultation with legal counsel where appropriate, on a case-by-case basis.

1. Tangible Personal Property

The Foundation may accept gifts of tangible personal property. In order to claim a deduction the donor will be required to seek a qualified appraisal for gifts of $5,000 or greater. This is discussed further in Section X. "Donor Responsibility", below. If the personal property is unrelated to the Foundation's exempt purpose, the tax deduction is limited to the property's original cost and the donor receives no benefit from appreciation.

With property unrelated to the Foundation's exempt purpose, the Foundation should encourage the donor to sell the property, pay the capital gains tax and contribute the net proceeds to, or contribute the property to a charity that has a related purpose. Donors should consult with their tax advisors regarding the effect of the type of property and its tax characterization (for example, depreciated or appreciated) on the possible charitable deduction available.

The Foundation will evaluate proposed gifts of personal property on a case-by-case basis with specific consideration of the salability of the property and expenditures necessary to accept or maintain the gift. The donor will be responsible for obtaining any necessary qualified appraisal complying with IRS regulations for the property.

*2. **In-kind gifts***

In-kind gifts may be accepted and acknowledged by the Foundation. The Foundation will not attempt to place a value on donated equipment or services. It is the donor's responsibility to verify the value on the donated goods or services, though contributions of services receive no tax deduction. Those who contribute services can take a tax deduction for their out-of-pocket expenses including mileage.

3. Real Estate

The general policy regarding gifts of real estate is as follows:

a. All real estate will be held by a separate limited liability company of which The Community Foundation is the sole member.
b. The property must have significant value in relation to the costs of holding and selling the property and any liability or exposure in connection with ownership of the property.
c. No resale agreement may be made or signed, nor any purchaser identified, prior to the gift being made.
d. The property must be considered to be marketable within a six month, or other reasonable, time period.
e. As a rule, the Foundation will liquidate such assets as soon as practical and reinvest the proceeds in the appropriate fund.
f. The Foundation will evaluate the cost of holding and/or improving the property against the cost of liquidating the property immediately.
g. The Foundation will not accept debt encumbered property, unless special circumstances so warrant.
h. The Foundation will not accept property located outside the U.S., unless special circumstances so warrant.
i. Gifts of real estate require a qualified appraisal. See Donor Responsibility.
j. The Foundation reserves the right to refuse any gift of real estate.
k. All expenses associated with the evaluation (if not otherwise furnished), acquisition, retention and sale of the property will be paid for and accounted for by the Foundation and reimbursed to the Foundation at the time the property is sold, with net proceeds used to create the named fund.

4. Interests in business entities

If the Foundation is offered a gift of a business interest, for example a limited partnership interest, inquiries including the following will be made such as the nature of the underlying assets, the identity and reliability of the general partner, whether income flowing from the asset is unrelated business income, whether the veil of limited liability is a reliable shield from actual liability, and whether the cash flow from the asset gives us an adequate return after possible tax liabilities and assessments. The following will also be reviewed: the partnership agreement or other organizational documents, leasing arrangements, debt obligations, tax returns, K-1's, and an exit strategy. Pay special attention to current tax laws with regard to Subchapter S Corporations concerning potential Unrelated Business Income Tax liabilities.

5. *Excess Business Holdings*

Notwithstanding any other provision hereof, the Foundation shall not accept any gift of a business interest in a business enterprise for a donor advised fund that the Foundation determines would likely subject the Foundation to tax under Section 4943 of the Internal Revenue Code regarding "excess business holdings."

Any potential gift that would result in a donor advised fund holding:

- Twenty percent or greater interest in a business or in an entity,
- Any interest (other than a 2% or lesser interest in both (x) value of all outstanding interests and (y) voting stock, capital interest, or beneficial interest) in an entity in which any interest is owned by a donor or advisor to the donor advised fund, by a family member of any such person, or by an entity in which any of the foregoing persons has an interest, shall be referred to the Foundation's legal counsel for a determination on the potential application of Code Section 4943. To the extent that such assets would constitute or become excess business holdings and they are accepted in a donor advised fund, the Foundation will establish procedures to ensure disposal of the assets within the time periods prescribed by the tax law. The Foundation will notify potential donors of such requirements prior to the acceptance of such interest.

Any interest in a sole proprietorship is unacceptable. (According to Treas. Reg. Section 53.4943-10(e), a sole proprietorship is a business enterprise which is actually and directly owned by the private foundation and not held by a corporation, trust, or other business entity for the foundation. Further, to be considered a sole proprietorship, the foundation must have a 100 percent equity interest. If the foundation has less than a 100 percent equity interest, the business enterprise would be treated as a partnership for the purposes of the excess business holding rules.) For sole proprietorships, no amount of holdings is permitted.

6. Bargain sales

A "bargain sale" is a sale of property to the Foundation for an amount less than the property's current fair market value. The excess of the value over the sale price represents a contribution. The amount of the allowable deduction for a bargain sale will be subject to the rules of the Internal Revenue Service relating to bargain sales.

7. Life Estate Arrangements

A donor may contribute a personal residence, vacation home, farm, etc., to the Foundation and retain the right to occupy the property until death. Upon the donor's death, the Foundation will own the entire interest in the property. Such gifts will be subject to the same rules governing other gifts of real estate.

IV. DONOR RECOGNITION, STEWARDSHIP AND GIFT ACKNOWLEDGEMENT

The Foundation recognizes the paramount role of donors as partners with the Foundation in achieving its charitable purposes. The Foundation will inform donors and other interested parties of gifts to and grants from named funds.

All gifts to the Foundation will be acknowledged and receipted in writing in a timely fashion (within 30 days) and in accordance with then-current IRS law. The Foundation will provide donors with periodic written reports regarding the fund's activities as may be appropriate or required, including market value and information necessary to the donor for preparing federal and state tax returns.

V. CONFIDENTIALITY AND ANONYMITY

All agreements with donors and all information concerning donors and prospective donors will be held in strict confidence by the Foundation. No director, committee or staff member of the Foundation, either during or after his or her term, of office shall release any non-public information, subject to legally authorized and enforceable requests for information by government agencies and courts. No employee of the Foundation will provide any information in response to a subpoena or other form of request without consulting legal counsel to the Foundation. All other requests for or releases of information concerning a donor will be honored or allowed only if permission is obtained from the donor prior to the release of such information.

It is the Foundation's policy not to release, sell or license any information in its database without a donor's consent.

A donor's expressed wishes for public anonymity will be respected. Internally, only those staff members with a need to know for legal, processing or other substantive reasons will know the donor's name or details of the gift.

VI. FOUNDATION'S LEGAL COUNSEL

The Foundation will seek the advice of legal counsel when appropriate in matters pertaining to its development program. All agreements, contracts and other legal documents relating to the development program will be reviewed by legal counsel prior to execution or use, with the exception of standard form documents described in Section VII. below which have not been modified or supplemented.

VII. STANDARD FORM DOCUMENTS

For administrative ease and convenience, the Foundation will develop standard fund agreements and other documents relating to the Foundation's development program as deemed appropriate. Legal counsel will review all such standard forms. The standard forms will be updated and revised as appropriate. The Foundation will provide standard forms to a prospective donor and the donor's advisors upon request and encourage their use whenever practicable.

VIII. DONOR'S COUNSEL

The Foundation's staff will encourage each prospective donor to seek professional advice when considering a gift to the Foundation and to have the terms of all proposed agreements reviewed by the donor's own legal and/or financial advisors.

IX. DONOR RESPONSIBILITY

The Foundation will advise donors that it is the donor's responsibility to obtain and pay for any necessary appraisals, to file appropriate tax returns, and to defend against any challenges to claims for tax benefits. The Foundation will also advise the donor that there are no representations or indemnities with regard to the income, estate, or gift tax consequences of any gift to the Foundation.

Additionally, when the value of a gift of property (other than cash or publicly traded stock) is over $500, Donors must file I.R.S. Form 8283 with the I.R.S.

It is the donor's responsibility to provide an appraisal of all property (except cash and publicly-traded securities) with a value of $5,000 or over to support a charitable deduction [Reg. Sec. 1.170A-13(c)(i)(i)]. The appraisal must be done either within 60 days of the date of the gift or any time prior to the due date (or extended due date) of the income tax return.

If it receives property valued at over $5,000 (or $10,000 in the case of non-publicly traded stock), the Foundation will sign a copy of the appraisal report (Form 8283) which the donor attaches to his/her income tax return. The Foundation is certifying receipt of the gift but not necessarily agreeing with the value.

The Foundation will file I.R.S. form 8282 (Donee Information Return) with the I.R.S. and send a copy to the donor if the Foundation sells the gifted property within two years of receipt. I.R.C. sec. 6050L(a)

X. INTEGRITY OF THE FOUNDATION'S ACTIVITIES

Foundation staff and Board members

- Cannot benefit personally from fees related to gifts received;
- Cannot participate in any activity which could be deemed a conflict of interest;
- Shall not pay a finders fee or other private inurnments to anyone as a result of such person's involvement in acquiring gifts for the Foundation.

Programs, trusts, contracts or commitments that would benefit the Foundation at the expense of the donor's interests will not be urged upon any donor. To ensure donors' desires are accomplished, all efforts will be made to solidify those desires through meetings and appropriate documentation.

XI. PROMOTION AND PUBLIC EDUCATION

Foundation staff will establish appropriate ongoing programs and systems for educating and informing donors and prospective donors about the Foundation, its mission, activities and the community's charitable needs.

XII. MATERIAL RESTRICTIONS

The Foundation reserves the right to refuse any gift that it believes is not in the best interests of the Foundation. In conformity with Treasury Department regulations governing community foundations, gifts to the Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from freely and effectively employing the transferred assets, or the income derived therefrom, in furtherance of its exempt purposes.