

Community Foundation of Greater Johnstown

BY-LAWS

ARTICLE I – LOCATIONS

1. The registered office of the corporation shall be at 116 Market St., Suite 4, Johnstown, PA 15901

ARTICLE II – PURPOSE

1. The purpose of the Greater Johnstown Foundation shall be to assist public, charitable or educational institutions within the Greater Johnstown area and adjoining counties where these are or may be supported wholly and/or in part by private endowment, donations or public taxation.
2. To promote scientific research for the advancement of knowledge.
3. To support art, music and culture of all kinds.
4. To provide scholarships or otherwise assist deserving persons in obtaining an education.
5. To assist the improvement of living and working conditions in the Community.
6. To provide facilities for public recreation.
7. To provide funds to assist in the delivery of medical services.
8. To administer the funds of like-minded organizations provided that none of these violate the limitations of the Articles of the Foundation.
9. To accomplish the above purposes, the foundation may accept any gift/grant devise or bequest in trust for the purposes stated above.

ARTICLE III – MEMBERS

1. The membership in the organization shall consist of the persons who are members of the Board of Directors.

ARTICLE IV – DIRECTORS

1. Business and affairs of the Foundation shall be managed by its Board of Directors, who shall be made of seventeen (17) members who shall all be natural persons of full age, who shall be members of the corporation.
 - a. Article IV-1 (approved on November 2, 2001) is amended to provide that the number of Directors for the Foundation shall be increased to thirty (30).
2. The Directors shall be elected by the members at the annual meeting of the members of the corporation. Directors shall be elected for a three (3) year term or until a successor is selected for him/her. No Director shall serve for more than three (3) consecutive three (3) year terms.
3. The terms of the Directors shall be staggered so that no more than one-third of the Directors are elected in any year.
4. Directors elected to serve for terms that begin after May 6, 2009, shall serve for three (3) year terms. Such three (3) terms can be renewed for additional two (2) consecutive terms at which time the Director so elected shall not be eligible to serve for a period of one (1) year. At the end of the one (1) year period, such Director shall be eligible to serve again subject to the same limitations set forth in this paragraph.
5. In each succeeding year, the Board of Directors shall, likewise, conduct an election for one-third of the membership of the Board.
6. The Board shall be governed by the following procedures:
 - a. The Board will exercise all powers of the corporation and do all lawful things, as are not by statute, by the Articles of these bylaws, directed or required to be exercised or done by any other party.
 - b. The Directors shall meet at such times and places within the Commonwealth or elsewhere as a majority of the Directors shall from time to time determine. The Board shall meet no less than four (4) times per year. An annual meeting will be held each year.
 - c. A majority of the Directors in office shall be necessary to constitute a quorum for the transaction of business and the acts of majority of the Directors present at a meeting in which a quorum is present shall be the acts of the Board of Directors. Any action, which may be taken at a meeting of the Directors, may be taken

without a meeting of a consent or consensus in writing, setting forth the action so taken shall be signed by all of the Directors in office, shall be filed with the Secretary of the Foundation.

- d. The Board may, by resolution, adopted by majority of the Directors in office establish one or more committees to consist of one or more Directors of the corporation and such other persons who may or may not be members of the Board to carry out the responsibilities to the extent provided by resolution of the Board of Directors creating the committee.
- e. Notice of the meetings of the Board of Directors shall be given not less than five (5) days prior to the time of the meeting.
- f. A director of the corporation shall stand in a fiduciary relation to the corporation and shall perform his duties as a Director, including his duties as a member of any Committee of the Board upon which he may serve, in good faith, in an manner he reasonably believes to be in the best interest of the corporation, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his duties, a Director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared by any of the following:
 - 1. One or more officers or employees of the corporation whom the Director reasonably believes to be reliable and competent in the matters presented.
 - 2. Counsel, public accountants or other persons as to matters, which the Director reasonably believes to be within the professional or expert competence of such person.
 - 3. A Committee of the Board upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which the director reasonably believes to merit confidence.

A Director shall not be considered to be acting in good faith if he/she has knowledge concerning the matter in question that would cause his/her reliance to be unwarranted.

In discharging the duties of their respective positions, the Board of Directors, Committees of the Board and individual Directors may, in considering the best interest of the corporation, consider the effects of any action upon employees, upon suppliers and

customers of the corporation and upon communities in which offices or other establishments of the corporation are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of this section.

Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a Director or any failure to take any action shall be presumed to be in the best interests of the corporation.

A Director of the corporation shall not be personally liable for monetary damages as such for any action taken, or any failure to take any action, unless:

- (1) The Director has breached or failed to perform the duties of his office under this section.
- (2) The breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

The provisions of this section shall not apply to:

- (1) The responsibility or liability of a Director pursuant to any criminal statute; or
- (2) The liability of a Director for the payment of taxes pursuant to local, state or Federal law.

7. (Approved at the August 8, 1991 meeting of the Board of Directors) Removal of Resignation: Any member of the Board of Directors may resign at any time by providing written notice to the Chairman of the Board of the Foundation of his or her intention to resign. The resignation would then be presented to the Board of Directors, and upon acceptance of the resignation by the Board of Directors, the resigning Board member shall be removed as a Director of the Foundation

In the event that any member of the Board of Directors fails to attend three (3) or more meetings of the Board during any one (1) calendar year without providing notice to the President of the Foundation of his/her intention to not be present at the meeting thereafter, then the Board may remove that Director from his/her position as a Director.

8. Vacancies: In the event of a vacancy on the Board of Directors due to death, resignation or removal of a Director the Board of Directors shall elect a replacement for the Director. The person replacing the Director shall serve for the same term as the Director that he or she replaces. The Director shall be selected for these vacant positions by a special nominating committee appointed by the Chairman of the Board of the Foundation.

ARTICLE V – OFFICERS

1. The officers of the Foundation shall consist of the following persons, who shall be selected annually by the Board of Directors:
 - a. **Chairman of the Board** – The Chairman of the Board shall be the Chief Executive officer of the Corporation. He/she shall conduct the meetings of the Foundation and shall have general and active management of the affairs of the Corporation. He/she shall see that all orders and resolutions of the Board are carried into effect and shall be an ex-official member of all committees and have the general powers and duties of supervision and management, usually vested in the office of Chairman of the Board.
 - b. **President** – The President shall be the Chief Operating Officer of the Foundation and shall be in charge of the day-to-day operation of the Foundation.
 - c. **Secretary** – The Secretary shall attend all meetings of the Board and shall act as the clerk thereof to record the votes of the members of the Board, the minutes of meetings. He/she shall give notice of all meetings and shall perform such other duties.
 - d. **Treasurer** – The treasurer shall have custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements.
2. The officers shall be elected for terms of one (1) year and shall be entitled to succeed to their offices for successor terms. Officers shall be elected at the annual meeting of the Board of Directors.
 - a. The President shall not be required to be a member of the Board of Directors. All other officers shall be members of the Board of Directors.

ARTICLE VI – COMMITTEES

1. The Foundation may have committees and the members of the committees shall not be required to be members of the Board of Directors, although each committee shall have at least one (1) member of the Board of Directors as a member of the committee. Additional committees may be selected and appointed by the Board of Directors but the following committees shall be standing committees of the Board of Directors:

- a. **Distribution Committee** – The Distribution committee shall have the power to distribute to, select, and appoint the beneficiaries of any distribution made from the Foundation and in the case of any restricted gift accepted by the Foundation, to advise the Board concerning the administration of the restriction in the gift according to the terms provided for by the Donor. In carrying out this obligation, the Distribution Committee shall act within the limitations, restrictions and recommendations of the purpose clause of the Foundation.

The Distribution Committee shall be charged with establishing a written procedure for reviewing applications and distributions and for the disbursement of funds. They should also establish a procedure for carrying out the purposes of restricted gifts.

The Distribution Committee shall also be the committee authorized to carry out the variance powers of the Foundation as such powers are set forth in Article VII of these By-Laws.

- b. **Investment Committee** – The Investment Committee shall provide the necessary rules, regulations and directives for the investment of funds received by the Foundation. The Committee shall prepare a written statement of the investment policies of the Committee and the procedures to be followed in investing funds.
 1. **Investment Policy Committee** (approved January 25, 2001) The Investment Policy Committee shall be responsible for exercising oversight for the Foundation’s various investment funds to assure investment managers are in conformity with the organization’s adopted

Investment Policies and Guidelines. The Committee shall also review compliance with special directives and other unique requirements or conditions as may otherwise be imposed by donor agreements upon specified investment funds.

(approved January 28, 2001) The Investment Policy Committee shall be responsible for providing that investments are in compliance with necessary rules, regulations, directives, and donor requirements for the funds invested and received by the Foundation.

2. **Investment Management Committee** (approved January 25, 2001) The Investment Management Committee shall be responsible for exercising oversight establishing strategies and evaluating investment performance results for the Foundation's various investment funds. The Committee will establish performance benchmarks consistent with the organization's investment policies and guidelines as well as the individual investment fund's established distribution policy and stated investment objective. The Committee shall conduct periodic reviews of the fund's performance results with each assigned investment manager.

(Approved January 28, 2001) The Investment Management Committee shall be responsible for the investment of funds in compliance with the investment policies.

- c. **Marketing Committee** – The Marketing Committee shall be responsible for contacting the public for the purposes of making the public aware of the benefits of the public Foundation and its operation in the community. The Marketing Committee shall further prepare programs for presentation to the public for the purpose of encouraging contributions and donations to the Foundation. The Committee shall prepare a statement setting forth the goals and objectives of the Committee and the means for carrying out these goals and objectives.
- d. **Executive Committee** – The Executive Committee shall consist of not less than five (5) members of including the officers of the corporation and other members selected by the officers to serve on the Committee. The Executive Committee shall be authorized to act on behalf of the board but its actions shall require ratification by the Board. The ratification may occur without a formal Board meeting and may be by telephone. The Executive Committee shall

also be the committee authorized to review proposed gifts to the Foundation and to recommend to the Board whether gifts should be accepted.

- e. Governance Committee - The purpose of the Governance Committee shall be to screen candidates for the Board of Directors and to prepare an annual slate of proposed Board Members and Officers as well as advising the Board on governance documents and governance models ensuring compliance with law and standards. The membership of the Committee shall be made up of three (3) Board Members, including one Board Member then serving as an Officer, then past Board Members may also serve. The Committee shall meet annually or more often as is necessary at the discretion of the Chairman of the Committee. The Committee Members shall be appointed annually. The Committee shall work with the Chief Executive Officer to provide suitable candidates to serve as members of the Board of Directors by inviting recommendations and suggestions in writing from the Board Members and by maintaining a roster of potential Board Members to satisfy the criteria of Board Members for the Foundation.

ARTICLE VII – OPERATIONS

- 1. The following should apply to the operation of the Foundation:
 - a. The fiscal year of the foundation shall be ended on June 30.
 - b. Checks, drafts, promissory notes, orders to the payment of money other evidence, indebtedness and contracts, leases and other instruments shall be executed in the name of the foundation and signed by any two officers of the corporation.
 - c. The Foundation shall have the right to redirect the return from any fund created to another beneficiary without the approval of the Donor, any non-profit organization that is a beneficiary of a fund, or any other party if the distribution to the non-profit organization shall become unnecessary, impossible or inconsistent of the needs of the community and the purposes of the Foundation.

The purpose of the above is to comply with FASB 136, which provides that if no variance power is granted and particularly if funds are to be distributed to the entity

creating the gift, the Foundation is a trustee rather than an owner of the gifted property. Therefore, the following variance clause is adopted and to be included in gift instruments:

Variance Power. Foundation agrees that if the Distribution Committee proposes to exercise the variance power under Article VII of its By-Laws, copies of which have been supplied to Donor, or which the Donor hereby waives receiving, this agreement is subject to the Foundation's authority to vary the terms as stated in Article VII of its by-laws and as set forth in tax regulations 1.170A-9(e)(11)(V)(B), (C), and (D). The Foundation shall promptly notify the Donor of any decision made to exercise the variance power. If the Foundation becomes aware of any other action that was conceived or proposed by any other person to vary the purposes, uses or methods of administration of the fund, it shall promptly notify the Donor thereof. If at any time the restriction of condition for distribution becomes inconsistent with the charitable needs of the community, or if the variance power is at any time exercised, the Foundation's Distribution Committee will exercise its discretion and judgment to seek to grant and apply amounts distributable from the Fund as nearly as they can to comply with the purposes stated by the Donor to the fund.

ARTICLE VIII – BOOKS AND RECORDS

1. The Foundation will keep correct and complete books and records of account and keep minutes of the proceedings of its meetings.
2. The Foundation shall also keep records of members of all committees and the Board together with their addresses.

ARTICLE IX – INDEMNIFICATION

1. The corporation shall indemnify each of its directors, officers, and employees whether or not then in service as such (as his or her executor, administrator and heirs), against all reasonable expenses actually and necessarily incurred by him or her in connection with the defense of any

litigation to which the individual may have been a part because he or she is or was a director, officer or employee of the corporation. The individual shall have no right to reimbursement, however, in relation to matters as to which he or she has been adjudged liable to the corporation for negligence or misconduct in the performance of his or her duties, or was derelict in the performance of his or her duty as director, officer or employee by reason of willful misconduct, bad faith, gross negligence or reckless disregard of the duties of his or her office or employment. The right to indemnify for expenses shall also apply to the expenses of suites, which are compromised or settled if the court having jurisdiction of the matter shall approve such settlement.

The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights to that which such director, officer or employee may be entitled.

ARTICLE X – AMENDMENTS

1. The By-Laws may be adopted, amended or repealed by the vote of the members or Board of Directors entitled to cast at least a majority of the votes, which all members present at a meeting called for that purpose are entitled to cast, provided that notices given to the Board at least ten (10) days prior to the time of the meeting of the proposed Amendment.

These By-Laws adopted by the Board of Directors of the Community of Greater Johnstown this 11th day of July, 1990.

Gary C. Horner
Secretary