

NIAGARA COMMUNITY FOUNDATION

POLICY: Donor & Gift Management Policies		NUMBER: 3.2	PAGE: 1 of 5
SUBJECT: Gift Acceptance Policy			
APPROVED: May 3, 2001	REVISED/REAFFIRMED: June 7, May 2003, Sept. 2011	SUBJECT TO REVIEW July 2015	

PREAMBLE:

A gift acceptance policy is important to ensure donations are used to further the vision of the Foundation and includes appropriate consideration of donor objectives. It provides clarification, along with Fund Agreements, of roles, responsibilities and expectations of both the Foundation and its donors.

A gift acceptance policy provides guidance for Foundation Board decision-making. It ensures that gifts to the Foundation are made in accordance with legal and ethical regulations and guidelines, and promotes consistent practices in exercising fiduciary responsibilities.

This policy will help to enhance long-term relationships with donors, and encourage donors and Foundation representatives to work together to provide the most effective benefits to our community congruent with donors' broad philanthropic wishes. The Foundation shall abide by all applicable laws governing the charitable sector. To demonstrate its commitment to donors, reference should be made to the **Donor Rights Policy** adopted January 4, 2001 by the Foundation Board of Directors.

STATEMENT:

1. **Consistency with foundation mission:** Gifts must be consistent with the overall mission and strategic intent of the Foundation, all applicable statutory provisions, and must not compromise the Foundation's integrity. The Foundation may, in its discretion, refuse a gift on these grounds.
2. **Clarity of intent:** The Foundation encourages donors to work with professional advisors in making gifts. It shall not solicit or accept a gift from a donor unless it is satisfied that the donor has a bona fide charitable intention and has an accurate understanding of the consequences of the donation, the work of the Foundation, and the uses to which the gift will be put.
3. **Seeking independent advice:** Persons acting on behalf of the Foundation shall encourage potential donors to consult independent legal and tax professionals to ensure that donors receive a full and accurate explanation of the nature and consequences of their gifts.
4. **Undue influence:** Persons acting on behalf of the Foundation shall inform, serve, guide or otherwise assist donors who wish to support the Foundation's activities, but never under any circumstances are they to pressure or unduly persuade.
5. **Parameters of gifts:** Foundation volunteers, friends and staff members are authorized to encourage donors to make gifts to the Foundation within the parameters of the **Gift Acceptance Policy**.
6. **Authority to negotiate:** The Executive Director is authorized to negotiate gift agreements with prospective donors and their professional advisors in accordance with the guidelines set for in this Policy.
7. **Authority to accept:** Outright gifts of cash, publicly traded securities, and life insurance do not require approval by the Board of Directors unless there are unusual restrictions or circumstances involved.
8. **Gifts Accepted:** The Foundation routinely accepts only property that is readily marketable at reasonable cost. That refers to cash, cash equivalents (including deposit instruments of a government or financial institution in Canada), publicly traded securities, policies of life insurance, bequests or any other property that the Foundation has identified within its investment policies.

NIAGARA COMMUNITY FOUNDATION

POLICY: Donor & Gift Management Policies		NUMBER: 3.2	PAGE: 2 of 5
SUBJECT: Gift Acceptance Policy			
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9. **Acceptance of Other Forms of Property:** The Foundation recognizes that donors will occasionally wish to give property that is not readily marketable, such as real estate, art, jewelry, private corporation shares or residuary interests in trusts. While the Foundation is generally pleased to accept gifts, it has to be careful to evaluate whether there may be “hidden costs” in accepting such property. The Board will be consulted on all gifts of property prior to responding to donor.

10. **Related Costs:** Gift-related costs such as legal fees, appraisals, real estate commissions and taxes relating to acceptance, maintenance, management or re-sale of a gift of property will normally be the responsibility of the donor unless the Foundation, upon prior agreement, agrees to assume responsibility for any portions of these items.

11. **Gifts Requiring Board Approval:** The following gifts must be reviewed and approved by the Board of Directors: gifts of real or tangible property and gifts of a residual interest. Before acceptance and approval, relevant information about the gift shall be ascertained, including a copy of any appraisal secured by the donor. The Foundation reserves the right to obtain its own appraisal for gifts of real or tangible property or other property whose value is not readily ascertainable.

12. **Gifts Not Accepted:** The Foundation cannot offer charitable annuities or any other gift creating a liability. It reserves the right to decline a gift based on:
 - lack of congruency with the Foundation’s mission;
 - desire of the donor to exert unacceptable conditions or controls over disbursement of the net income from the gift;
 - cost of ownership implications related to administration time, management and marketability of the gift;
 - unacceptable risks;
 - gifts that are illegal; and,
 - other factors agreed to by the Board of Directors

13. **Disposition of Gift:** The Foundation does not make any representation that by accepting a gift it will retain the property or employ the donated property for the same purposes as the donor used it. For example, absent an agreement, if the Foundation acquires a residence as a gift, it will not retain it as an office or retreat, but will sell it and invest the proceeds in accordance with its investment policy.

14. **Fund Agreements:** The Foundation works with donors to develop agreements with respect to the name, nature, limits and use of their gifts at the time a gift is made. Fund agreements specify the type of fund created (permanent endowment, flow through fund or non-permanent endowment). Fund agreements will clearly identify that it is the responsibility of the Board of Directors to approve all disbursements of net income from endowed funds. These agreements will be developed where the donor is giving specific recommendations to the foundation as to the distribution of the earnings generated by their gift. All fund agreements requiring execution by the Foundation shall first be reviewed and approved as to form and content by the Foundation’s legal counsel. Where substantially the same agreement is used repeatedly, only the template needs to be approved. All fund agreements must be reviewed and approved by the Board of Directors.

NIAGARA COMMUNITY FOUNDATION

POLICY: Donor & Gift Management Policies		NUMBER: 3.2	PAGE: 3 of 5
SUBJECT: Gift Acceptance Policy			
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15. **Charitable Tax Receipt:** The Foundation shall issue a charitable tax receipt within 30 days of receipt of the gift. For gifts of shares, a tax receipt shall be issued for the earlier of either the trading price or the closing price on the day the Foundation's broker receives the shares, assuming liquidity.
16. **Benefit to Donor:** The legal nature of a charitable gift is that a donor cannot expect or receive financial benefits or opportunities to flow from the gift.
17. **Donor-Advised Funds:** The Income Tax Act (Canada) imposes limits on a donor's capacity to impose restrictions on charitable gifts. A donor may, however, at the time the gift is made and even subsequently, by agreement with the Foundation, place limits on the uses to which a gift may be put. Further, the donor or the donor's designated representatives may advise the Board of the Foundation on the application of the earnings of his or her gift and the Board shall generally consider and respect such advice. Beyond that a donor cannot legally restrict the Foundation.
18. **Flow-Through Funds:** The principal mission of the Foundation is to raise, administer and distribute earnings from funds that are held on a permanent or endowed basis. As a service to donors the Foundation is prepared to accept from time to time the receipt and disbursement of gifts that are not intended to be held as endowment funds. The Foundation exercises broad discretion as to whether or not to accept such gifts and may charge an administrative fee.
19. **Preservation of Donor's Intention:** Where, by prior agreement, the Board agrees to receive the advice of donors on the distribution of grants, the Foundation shall not seek to pass judgment on the value or merit of the donor's proposed application so long as the income is applied according to legal provisions to a charitable purpose.

Should the Foundation cease to exist or become incapable of administering a fund to fulfill a donor's purpose, the Foundation shall employ its best possible efforts to ensure continued application of the fund to the purpose originally contemplated by the donor.

NIAGARA COMMUNITY FOUNDATION

POLICY: Donor & Gift Management Policies		NUMBER: 3.2	PAGE: 4 of 5
SUBJECT: Gift Acceptance Policy			
APPROVED: May 3, 2001	REVISED/REAFFIRMED: June 7, May 2003, Sept. 2011	SUBJECT TO REVIEW July 2015	

20. **Administration Policies:** The Foundation adopts policies that regulate administrative charges on its endowment funds, manage the investment of the funds, determine the appropriate portion of funds to distribute for charitable granting purposes or retain as capital to protect against erosion by inflation. Except for more precise agreement with the donor overriding these general policies, the Foundation shall apply its policies equitably to all funds under its control and may amend such policies from time to time.

21. **Geographic Area of Focus:** The primary, but not exclusive, focus of the Foundation's activities is within the geographic area encompassed by the political boundaries of the Regional Municipality of Niagara, as at April 18, 2000. It may refer a donor to another community foundation or charitable organization if it perceives that the donor will be better served by such organizations. The Board of Directors adopted the following policy on Feb. 1, 2001: Whereas the resources to operate and fund the foundation are primarily from the Niagara Peninsula, be it resolved that for donor-advised and designated funds, more than 50% of the income shall be directed to charities serving the Niagara Peninsula." This policy is waived for donor-designated funds (June 2001).

22. Guidelines for specific gifts:

a. Cash

Gifts of cash and cash equivalents.

b. Publicly-traded securities

Gifts of marketable publicly traded securities shall be scrutinized and accepted by the Foundation's investment manager. These securities shall be sold immediately upon receipt and converted to cash (see *Interim Investment Policy*).

c. Gifts of property including real estate, art, jewelry etc.

Gifts of property or real estate may be made in various ways: outright or residual interest in it.

Guidelines:

- Donors shall provide qualified appraisals of proposed gifted property.
- The Foundation will obtain its own independent appraisal. The Foundation may, at its discretion, obtain a third independent appraisal, and, in such cases, issue a receipt based on the Foundation's own appraisal.
- The Foundation shall satisfy itself that the donor has clear title to the property.
- The Foundation shall review all pertinent factors, including in the case of real property, zoning restrictions, marketability, prior land use, current use and cash flow, to ascertain that acceptance of the gift would be in the best interests of the Foundation.
- If the real estate possibly contains toxic wastes, the donor shall secure an environmental audit and provide the results to the Board of Directors. No property containing toxic wastes shall be accepted prior to removal and/or indemnification of the Foundation against all present and future liabilities.

NIAGARA COMMUNITY FOUNDATION

POLICY: Donor & Gift Management Policies	NUMBER: 3.2	PAGE: 5 of 5
SUBJECT: Gift Acceptance Policy		
APPROVED: May 3, 2001	REVISED/REAFFIRMED: June 7, May 2003, Sept. 2011	SUBJECT TO REVIEW July 2015

d. Bequests

A donor who advises the Foundation, in confidence, of a proposed testamentary gift to the Foundation, shall be asked to provide, if possible, a copy of that section of the Will naming the Foundation. The donor may also wish to execute an agreement with the Foundation directing the charitable use of the proposed testamentary gift. The Foundation will not serve as executor of a donor's will.

e. Gifts of life insurance

There are various methods by which a life insurance policy may be contributed to the Foundation. A donor may:

- Commence a life insurance policy of which the Foundation is the owner and beneficiary.
- Assign irrevocably a paid-up policy to the Foundation.
- Assign irrevocably a life insurance policy on which premiums remain to be paid and a charitable tax receipt shall be issued for premium amounts.
- Name the Foundation as a primary or successor beneficiary of the proceeds.

When ownership is irrevocably assigned to the Foundation, the donor is entitled to a gift receipt for the net cash surrender value (if any) and for any premiums subsequently paid.

f. Gift of a residual interest

This type of gift refers to an arrangement under which a property interest is conveyed to the Foundation, but the donor retains use of the property, or income from the property, for life or a specified term of years. For example, the donor might give a residual interest in a personal residence and continue living there or a residual interest in a painting and continue to display it. The owner is entitled to a charitable tax receipt for the present value of the residual interest.

Guidelines

The donor shall continue to be responsible for real estate taxes, insurance, utilities and maintenance after transferring title to the property unless the Foundation, upon prior approval of the Board of Directors, agrees to assume responsibility for any of these items. The Foundation is entitled to require that the donor provide proof of payment of those expenses for which the donor is responsible.

The Foundation reserves the right to inspect the property from time to time to assure that its interest is properly safeguarded.