



COMMUNITY FOUNDATION OF ANNE ARUNDEL COUNTY GIFT AND FUND ACCEPTANCE POLICY

About This Policy

The purpose of this policy is to establish criteria for accepting gifts to Community Foundation of Anne Arundel County (the Community Foundation) or to any supporting organization of the Community Foundation. Accepted gifts include current and deferred gifts of cash, personal property, real property, securities, life insurance and other gifts that are contributed by donors to the Community Foundation.

Documenting the Purpose of Gifts

The purpose of a gift to Community Foundation of Anne Arundel County will be defined in a written fund agreement or deferred gift instrument (e.g., will, trust) signed by the donor, or his or her appointed representative and if appropriate, the Executive Director of the Community Foundation. Additional gifts may be made to existing funds of the Community Foundation without restating the original purpose of the gift and without a separate fund agreement.

If a gift is being used to establish a new fund, it is the policy of the Community Foundation to develop a signed fund agreement prior to receiving a current outright gift. Gifts may be accepted without a signed fund agreement; however, it is in the best interest of the donor to complete the fund agreement as close as possible to the time the gift is received. In the case of a planned gift made by a living donor, a fund agreement should be completed and signed as soon as possible once the Community Foundation becomes aware the existence of the planned gift.

The purpose of all gifts must align with the broader charitable purposes of the Community Foundation. Each proposed fund or gift will be considered on a case-by-case basis. The Community Foundation reserves the right to accept or decline any proposed fund or gift to the Community Foundation.

Standard fund agreements that have been approved by legal counsel and the Community Foundation's Executive Director or Board Chair or Vice Chair may be used. Fund agreements will be prepared and reviewed by staff and or legal counsel of the Community Foundation.

Community Foundation staff will disclose to all prospective donors the benefits and liabilities that could reasonably be expected to influence the donor's decision to make a gift to the Community Foundation. Donors will be encouraged to consult with legal counsel and financial advisors in making their decision. They will also be provided with a written fund agreement. Their signature on the fund agreement will provide evidence to the Community Foundation that they have read the fund agreement and attached documents thoroughly and that they have agreed to the provisions of these documents.

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In particular, donors should be made aware of the following provisions and powers:

- the irrevocability of a gift
- the Community Foundation's variance power
- the Community Foundation's spending policy and definition of endowment funds
- in the case of donor-advised funds, applicable policies and limitations
- donor restrictions (i.e., no self-dealing, material restrictions, advice versus control)
- items subject to variability: market value, investment return, and income yield
- any applicable administrative and investment management fees, including any additional fees charged for more complicated gifts (real estate, art collections etc.)
- relevant administrative procedures (fundraising guidelines, check writing, grant approval process, necessary forms, etc.)

Gift and Fund Acceptance Committee

In general, Community Foundation staff will be authorized by the board to accept new gifts and funds subject to the policies outline herein.

To assist staff in the evaluation of complex gifts and funds, the Board of Directors of the Community Foundation may appoint a Gift and Fund Acceptance Committee, which will have the responsibility to consider and to make recommendations to the Foundation's Board of Directors regarding the acceptance of new gifts and funds. Alternately, the Board of Directors could empower an existing standing committee of the Community Foundation (such as Finance and Asset Management) to assist foundation staff in reviewing complex gifts and funds. The Board of Directors shall have the final decision-making authority over the acceptance and rejection of gifts. A process for determining which gifts require the review of the Board or its designated committee follows.

If a Gift and Fund Acceptance Committee is appointed, the Committee will be charged with ensuring that gifts received are consistent with these policies and that they are in the best interests of the Community Foundation. Committee members will reach agreement by consensus, with the assistance of advisory members who have expertise in specific types of gifts. Committee members may also review proposed funds or supporting organizations that may fall outside the ordinary scope of staff expertise.

Minimums

Currently the Community Foundation's minimum fund size is \$5,000. Gifts of any size to existing funds are gratefully accepted.

Which Gifts Require Review

A) Gifts received in the following forms can be accepted by Community Foundation staff and will not require prior review and approval by the Board of Directors or its designated Committee:

- **Cash or cash equivalents and checks**

The Community Foundation accepts cash, checks or money orders made payable to Community Foundation of Anne Arundel County or any of its funds.

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- **Marketable securities and mutual funds**

The Community Foundation will add the net proceeds of a marketable securities contribution to a fund of the Community Foundation. It is the general policy of the Community Foundation to sell marketable securities immediately upon receiving them. The Community Foundation will govern the disposition of securities and will make all decisions regarding the sale or retention of securities.

- **Gifts of personal property** for the Foundation's offices or programs.

B) Gifts that may require review or approval by the Board of Directors or its designated Committee include:

- **Tangible personal property**

Tangible personal property may be accepted as a gift. If the value exceeds \$5,000 a donor is required to have a qualified appraisal performed and submitted on IRS form 8283. If the Community Foundation sells the property within two years, the Community Foundation, informing the donor and IRS of the sale price of the item(s), must file IRS Form 8282.

The following should be taken into consideration before acceptance:

- ✓ whether or not the property is related or unrelated to the exempt purposes of the Community Foundation,
- ✓ whether the property is readily salable, and
- ✓ all indirect and direct costs associated with the gift including taxes, transportation and storage costs, security, maintenance/repair requirements, and the cost of eventually selling the item or property.

- **Real property**

If a donor wishes to contribute real property or an interest in real property to the Community Foundation whether as an outright gift or through a deferred giving arrangement, the Community Foundation shall consider all facts and circumstances before accepting the gift. Donors should always be advised to consulting with their own legal and financial advisors in finalizing the terms of the gift.

- **Gifts of closely held and S corporation stock**

Donors wishing to make gifts of stock in a closely held corporation or S corporation must have it valued by a reputable independent accounting or appraisal company prior to making a contribution. The Community Foundation will seek expert advice as to whether to sell the stock immediately or to hold it, and will make all decisions regarding the sale or retention of the stock. Input of donors is welcome, and may be considered along with the advice of outside experts.

The acceptability of a gift of closely held, S corporation stock would depend on the ultimate financial liability of the Community Foundation and the amount of management attention required, the ability to sell the interests in the case of a limited liability company, and the costs of sale of the intended gifts.

C) Gifts generally not accepted and requiring special approval by the Board of Directors or its designated committee:

- **Partnership interests**

The Community Foundation does not accept gifts of general partnership interests due to potential unlimited liability. The acceptability of a gift of a limited partnership interest will depend on the ultimate financial liability of the Community Foundation, the amount of management attention required, the ability to sell interests and the cost of sale of the intended gifts.

This hard-to-value property is best valued by a qualified appraiser. Consideration will be given to whether generated partnership income is unrelated business income subject to income tax.

- **Gift of securities not readily marketable** (e.g., some types of privately-held stock) will generally not be accepted, especially if such securities:

- represent a minority interest in the entity, or
- are assessable, or
- have no apparent value, or
- may not be assigned, or
- in any way could create a liability to the Community Foundation

- **Gifts whose structures fall outside the ordinary purposes, bylaws and procedures of the Community Foundation**

Gifts Declined

Community Foundation of Anne Arundel County reserves the right to refuse any gift that it believes is not in the best interest of the Community Foundation. If a gift is not accepted, Community Foundation staff will contact the prospective donor immediately.

Acknowledgment

Accepted gifts will be acknowledged by staff in accordance with federal regulations.

Income Tax Deductions

The charitable income tax deduction claimed by a donor is generally that donor's responsibility. The Community Foundation will follow the requirements and guidelines established by the IRS for reporting and receiving gifts of property.

Restrictions

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In conformance with Treasury Department regulations governing community foundations, gifts to the Community Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Community Foundation from freely and effectively employing the transferred assets or the income derived there from, in furtherance of its exempt purposes. Exceptions to this policy include split interest gifts in which the assets are temporarily restricted, such as life estates, gifts to the pooled income fund, etc.

Investment of Gifts

Donor's advice will be carefully considered in determining disposition, retention or investment of any gift. Donors may make choices among the Community Foundation's investment options. However, the Board of Directors, advised by its Investment Committee, reserves the right to make any or all investment decisions regarding gifts received.

In making a gift to the Community Foundation, donors give up all right, title and interest to the assets contributed. In particular donors give up the right to choose investments and investment managers, brokers or to veto investment choices for their gifts. In special circumstances, such as the formation of a supporting organization, the donor and the Community Foundation may by mutual agreement design a specific investment strategy appropriate for the purposes of the gift.

Planned Gifts

A planned gift is a donation, usually other than a direct outright gift of cash which (1) usually includes assets other than cash;(2) uses tax advantaged devices as set forth by the Internal Revenue Code and Regulations; (3) involves increased face to face communication between the donor and the Community Foundation; and (4) usually involves the counsel and advice of a financial/legal professional. Most planned gifts are deferred. Deferred implies that the charity must wait for a number of years after the gift until the occurrence of a specified event (such as the death of the donor or other income beneficiaries or the expiration of a predetermined period of time) before receiving the actual possession and ultimate control of the donated property.

The Community Foundation's planned giving program encompasses all types of gifts whose benefits do not fully accrue to the Community Foundation until some future time or whose benefits to the Community Foundation are then followed by the interests of noncharitable beneficiaries. The common types of planned gifts accepted include:

- **Gifts by Will or Living Trust**

The Community Foundation may receive bequests from people who direct through a will or a trust that certain money or property be transferred to the Community Foundation. The Community Foundation encourages such donors to contact our foundation's staff during their lifetime to discuss their charitable intent. Sample bequest language is available from the Community Foundation, but donors are encouraged to consult a professional advisor for additional assistance.

- **Gifts of Life Insurance**

A donor may make a gift of life insurance to the Community Foundation in several ways. The donor may choose to give a life insurance policy irrevocably designating the Community

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Foundation as owner and beneficiary of an existing life insurance policy. The Community Foundation can also be designated as a percentage beneficiary of a life insurance policy owned by the donor. In addition, the Community Foundation also accepts tax-deductible gifts of insurance policy dividends.

- **Charitable Trusts:**

- **Charitable Remainder Trust**

Under a *charitable remainder unitrust* the donor irrevocably transfers money, securities or other property to a Director selected by the donor. The Director pays the donor or one or more income beneficiaries designated by the donor a fixed percentage of the net fair market value of the trust's assets, as determined each year. The payments are made for the life or lives of the income beneficiaries or for a fixed period not to exceed 20 years. Upon termination of the income beneficiary interest, the assets of the unitrust will be transferred to the Community Foundation.

A *charitable remainder annuity trust* is similar to the unitrust except that the income beneficiary receives a fixed dollar amount annually for the trust.

The Community Foundation does not typically serve as a Director for charitable trusts, although it will consider serving in this role on a case-by-case basis.

- **Charitable Lead Trust**

Under a charitable lead trust the Community Foundation receives an income interest in the trust assets for a period of years or the lives of one or more individuals. At the end of this time the assets are distributed to noncharitable beneficiaries designated by the donor.

- **Gift Annuities**

At the present time the Community Foundation does not issue charitable gift annuities; however, that may change in the future.

- **Life Estate Agreements**

A donor may contribute a personal residence or farm to the Community Foundation and retain a life estate, which is the right to occupy the property until death. Upon the donor's death, the Community Foundation will own all, or a substantial interest in the property. During their lifetimes the donors and the Community Foundation will sign a fund agreement specifying the use of the proceeds from the property. Gifts of life estate are subject to Community Foundation policies on gifts of real property. A model life estate agreement form (called a Life Tenancy Agreement) is available.

Special Policies Governing the Acceptance of Gifts of Real Estate

The following policies were developed to protect the funds and assets of Community Foundation of Anne Arundel County and to ensure proper stewardship of the gifts and assets entrusted to us.

Gifts of real estate, including all forms of interests in real property, may be accepted on behalf of the Community Foundation in accordance with these policies. Each proposed gift will be reviewed and considered on a case-by-case basis. The Community Foundation may accept or

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reject any proposed gift. The following should be taken into account before acceptance: existing mortgages and liens against the property, taxes, condition and state of repair, zoning and land use violations, historical uses and presence of hazardous substances, the possibility of generating unrelated business income and similar factors.

Authority to Accept Gifts of Real Estate

The following officers of the Community Foundation are authorized to accept gifts of real estate that are permitted by these policies: The Executive Director or his/her delegate and the Treasurer. In general, gifts of real estate will also be reviewed by the Board of Directors or its designated committee.

Conditions for Acceptance

In general, it is the policy of the Community Foundation to accept gifts of real estate only if they are to be sold with the proceeds used for the charitable purposes described in the Community Foundation's mission. In the case of life estate gifts, such a sale will likely take place after the lifetime of the donor.

Gifts of real estate will be reviewed on a case-by-case basis and may be accepted under the following conditions:

- ✓ if the donated property will be used by the Community Foundation in connection with established or specifically approved programs or activities, or
- ✓ if it is to be held for the production of income.

Prohibited Transactions

The Community Foundation will not accept property, which would jeopardize its tax-exempt status, or expose it to expenses for which no source of funds has been identified.

Expenses

Prior to acceptance of any gift of real estate, a source of funds must be identified for maintenance, upkeep, insurance, etc. of the donated property.

Expenses related to the acceptance, management, sale or other expenses attributable to the acquisition or disposition of the property shall be charged against the income or sale proceeds of the property.

Conditions Affecting Acceptance

1. If the property is to be used by the Community Foundation, it shall be in good physical condition. If it is not in compliance with applicable building, health, and safety codes, or requires repairs or improvements, a source of funds for the costs of bringing the property into compliance must be identified prior to acceptance. Prior to acceptance of the real property, the Community Foundation shall take such steps as are reasonably necessary to ascertain whether or not there are any environmental or similar risks associated with the

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property, such as the presence of hazardous substances on or under the property and, if so, to determine the potential liability arising from those risks.

2. The proposed use must be lawful and consistent with the Community Foundation's mission and strategic plans.
3. If the property is to be held for the production of income, a *pro forma* positive cash flow analysis must compare favorably to the amount of income that would be obtained if the property were sold and the proceeds invested as a part of the investment pool.
4. If the property is to be sold, it should be marketable within a reasonably short period of time. Acceptance of offers to purchase property from the Community Foundation requires the signature of the Executive Director or his/her corporate legal delegate.
5. The Executive Director will consult Board of Directors or its designated committee for a recommendation regarding the acceptance of the gift.

Procedure

Prior to formal acceptance, Community Foundation staff shall obtain the following:

1. Preliminary title report covering the subject property (the title report shall reflect that title is vested in the donor in the form represented, and is subject to no claims, liabilities, or major defects of title);
2. A current valid appraisal performed by a qualified appraiser. The donor may be asked to pay the costs associated with obtaining any necessary final appraisal.
3. A list of improvements to the property;
4. A current list of leases, if any;
5. A list of encumbrances, liens, and current expenses, if any;
6. A commitment for title insurance; and
7. A physical inspection of the property by an employee, agent of, or consultant to the Community Foundation.

Conditional acceptance may be made subject to satisfactory completion of each of the above.

Hazardous Waste Considerations

Prior to formal acceptance, the Community Foundation may require that a Phase One environmental inspection (as defined by the Community Foundation) be made at the donor's cost by a reputable, licensed environmental engineer or firm competent to advise the donor and the Community Foundation whether further inspections and investigations are required.

Grant Deed

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Upon acceptance of the gift of real estate, the Community Foundation will ensure that the grant deed is properly conveyed to its possession. This includes having the donor sign the deed and recording it with the appropriate county. The Executive Director or his/her legal delegate has responsibility for the proper safeguarding of all deeds.

Internal Revenue Service Form 8283

The Internal Revenue Service requires that Form 8283 be completed so it can be filed with the donor's tax return. Upon acceptance, the Community Foundation will be responsible for completing the "Donee Acknowledgment Section" of IRS Form 8283, mailing the original form to the donor and a copy to the Executive Director.

Internal Revenue Service Form 8282

The Internal Revenue Service requires that Form 8282 be completed and filed (with respect to any real estate for which a Form 8283 has been filed) when that property is disposed of by the donee institution within two years of the date of gift. Upon disposition, the Community Foundation will be responsible for filing Form 8282, if required in a timely manner.

Life Estates

Simple Life Estate Agreements

In the case of property donated to the Community Foundation subject to a life estate, the life tenant shall enter into an agreement in writing providing that the life tenant shall pay all the costs of maintenance and upkeep of the property including but not limited to repairs, improvements, taxes, insurance, etc.

Life Estate with Lump Sum or Series of Payments

These opportunities will be evaluated on a case-by-case basis. If the life tenant is also to receive a lump sum payment or a series of payments, a financial analysis will be done to determine the return on investment to the Community Foundation. The analysis will include the life tenant's life expectancy, projected appreciation rate of the property, and estimates of future interest rates. Donor-authorized "impounds" from the lump sum will be necessary to cover maintenance, upkeep, insurance, property taxes, etc.

Cost Recovery

Funds to cover costs such as appraisals, hazardous substance assessments, taxes, insurance, maintenance, and unanticipated expenses may be advanced from other funds of the Community Foundation and recovered at the time disposition of the property is made. Donors shall be advised of this policy, since these costs will most likely be taken out of their fund once established.

Documentation of Acceptance of Property

It is the responsibility of the Community Foundation to secure acceptance from any of those parties authorized to accept property (see above) and assure documentation of acceptance. Documentation may be in the form of a memo to the file or more formally by letter.

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Exception Authority

The Executive Director or his/her legal delegate may make exceptions to these policies when such exceptions are deemed to be in the best interest of the Community Foundation. Such exceptions shall be in writing and include the basis of the exception.