

**BY-LAWS**  
**OF**  
**THE DELAWARE COUNTY COMMUNITY FOUNDATION, INC.**

**ARTICLE I - OFFICES**

**Section 1. Registered Office:** The Registered office of the Delaware County Community Foundation, Inc., hereinafter referred to as “Foundation”, shall be at 22 West Second Street, P.O. Box 36, Media, PA 19063.

**Section 2. Other Offices:** The Foundation may also have offices at such other places as the Board of Directors may designate or the activities of the Foundation may require from time to time.

**ARTICLE II - SEAL**

**Section 1. Corporate Seal:** The corporate seal shall have inscribed thereon the name of the Foundation, the year of its organization and the words, “Corporate Seal, Pennsylvania.”

**ARTICLE III - DIRECTORS**

**Section 1. Governance:** The business and affairs of the Foundation shall be governed by its Board of Directors (the “Board”).

**Section 2. Number and Qualifications:** The Board shall consist of not less than eight (8) or more than twenty five (25) individuals, each of whom shall be voting members of the Board, who shall reside in or near or otherwise be closely identified with the County of Delaware (a “Member” or “Director”). Such number may be increased or decreased by amendment to these By-laws. Members of the Board shall be elected on the basis of knowledge of the charitable and philanthropic issues of the Delaware County community, on the basis of skills, expertise, and activity in or representation of community or charitable institutions or organizations in the area which are concerned with charitable, educational, social welfare and/or natural resources needs. The purpose of this provision is to make the Board generally representative of the public interests in these needs in Delaware County. Members of the Board shall serve without compensation except for reasonable expenses incurred on behalf of the Foundation.

**Section 3. Election:** The Board shall annually elect or re-elect Board Members.

**Section 4. Term of Office:** The term of each Director shall be for three (3) years, except in the case of Directors elected to fill vacancies occasioned by death, resignation or removal of a Director before the expiration of such Director's term in which case the term of a Director elected to fill such vacancy shall be for the expired term of such Director's predecessor. No person shall succeed himself or herself as Director after serving two (2) full consecutive three (3)-year terms. Twelve (12) full months must elapse before such person is again eligible for re-election to the Board.

**Section 5. Termination:** Members of the Board who upon the majority vote of the entire Board and as a result of change of citizenship, conflict of interest, criminal prosecution, or lack of attendance at three (3) consecutive meetings without prior approval of the Chairperson, shall cease to be members of the Board of Directors.

**Section 6. Vacancies:** Vacancies by death, resignation, refusal to serve, or otherwise, shall be filled for the unexpired term by majority vote of the Directors then serving, although less than a quorum. A vacancy may only be filled by a person who possesses the qualifications referred to in this Article III.

**Section 7. Special Designations:** There shall be designated a title "Director Emeritus" to honor those retiring Directors who have made outstanding contributions to the growth and success of the Community Foundation. There shall also be designated a title "Chair Emeritus" to honor the Founding Chair of the Board. Special designations shall be determined by the Governance (Nominating) Committee. Director Emeritus and Chair Emeritus honorees shall have a permanent non-voting seat at all future meetings of the Board and shall not be counted in the number of Directors which are necessary for a quorum or under Section 2 of this Article III.

**Section 8. Powers and Duties of the Board of Directors:**

**Section 8.01.** Except as otherwise provided in the Articles of Incorporation or in these By-Laws, all the powers, duties and functions of the Foundation conferred by the Articles of Incorporation, these By-laws, State statutes, common law, court decisions, or otherwise shall be exercised, performed or controlled by the Board.

**Section 8.02.** The Board shall have general charge of the affairs, property and assets of the Foundation. It shall be the duty of the Board to establish through policy the aims and purposes of this Foundation, and, to this end, to manage and control all of its property or assets.

**Section 8.03.** The Board is hereby committed to exercise, in the best interest of the Foundation, the powers described in Treasury Regulation 51.170a-9(e)(11)(v)(B), (C), and (D).

**Section 8.04.** The Board shall obtain information and take other appropriate steps to reasonably assure itself that each participating trustee, custodian or other agent administers such funds of this Foundation in accordance with the provisions of Treasury Regulation S1.17A-9(e)(11)(v)(F).

**Section 8.05.** Action of the Board of Directors may be taken without a meeting upon unanimous written consent of all the members of the Board of Directors and shall be filed with the Corporate Secretary of the Foundation.

**Section 8.06.** The Board of Directors may establish committees as set forth in Article VII.

**Section 8.07.** The Board may appoint and/or engage as advisors, persons whose advice, assistance and support may be deemed helpful in determining policies and formulating programs for carrying out the Foundation's purposes.

**Section 8.08.** The Board of Directors may declare vacant the office of a Director if he/she is declared of unsound mind by an order of court, or is convicted of felony, and cannot fulfill such other requirements of qualification as the By-Laws may specify.

**Section 8.09.** Each member of the Board shall serve in a fiduciary capacity to the Foundation and shall perform his/her duties as a Director, including duties as a member of any committee of the Board upon which he/she may serve, in good faith, in a manner he/she reasonably believes to be in the best interests of the Foundation, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances.

#### **ARTICLE IV - MEETINGS OF BOARD OF DIRECTORS**

**Section 1. Meetings:** Meetings of the Board of Directors shall be held at least quarterly at such time and place as may from time to time be fixed by the Board.

**Section 2. Annual Board Meeting:** The Annual Board Meeting of the Foundation shall be held not later than one hundred twenty (120) days following the end of each fiscal year at such time and place in Delaware County as the Board may from time to time determine. Such Annual Board Meeting shall be for the purpose of electing a Board of Directors, approving a budget and

such other purposes as the Board shall determine. If notice of the Annual Board Meeting shall not be given, and the Annual Board Meeting not held within six (6) months after the end of any fiscal year, any Member of the Board may call such meeting.

**Section 3. Special Meetings:** Special Meetings of the Board may be called at any time by the Chairperson, or by a majority of the Board.

**Section 4. Notice of Meetings of Directors:** Written notice of every meeting of the Board, stating the time, place and purpose of the meeting, shall be given by, or at the direction of, the Corporate Secretary to each member of the Board, via United States mail, telephone, or facsimile transmission, at least ten (10) days prior to the day named for the meeting, unless a shorter period of notice is required. If the Corporate Secretary shall neglect or refuse to give notice of the meeting, the person or persons calling the meeting may do so. In the case of a Special Meeting, the notice shall specify the general nature of the business to be transacted. The Board may provide for additional notice by publication or otherwise should it be deemed advisable.

**Section 5. Actions of the Board:** A majority of the Board of Directors shall constitute a quorum for the transaction of business. The act of a majority of the Board of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

**Section 6. Meetings of Board of Directors:** Meetings of Directors may be held through any communications equipment if all persons participating can hear each other and such participation in a meeting shall constitute presence at such meeting.

## **ARTICLE V - OFFICERS**

**Section 1. Officers:** The executive officers of the Foundation shall be a Chairperson, one or more Vice-Chairperson(s), Corporate Secretary, Treasurer and such other officers and assistant officers as the needs of the Foundation may require.

**Section 2. Term of Office:** Officers are elected by the Board for a term of two (2) years and shall have such authority and shall perform such duties as are provided by the By-Laws and as shall from time-to-time be prescribed by the Board of Directors. The offices of Corporate Secretary and Treasurer may be held by the same person. The Board of Directors may secure the fidelity of any or all such officers by bond or otherwise. There will be no limit to the number of terms a Board member may serve as an officer during his or her tenure as a Director. Should an

officer be elected for a term that exceeds his or her tenure as a Director, he or she may remain a Director until that single term expires, but may not stand for re-election as an officer beyond that term.

**Section 3. Removal from Office:** Any officer may be removed by the Board whenever in its judgment the best interests of the Foundation will be served thereby, but such removal shall be without prejudice to the contract rights of any person so removed.

**Section 4. Vacancies:** If the office of any officer becomes vacant for any reason, the Board may choose a successor or successors, who shall hold office for the unexpired term in respect of which such vacancy occurred.

**Section 5. Role of the Chairperson:** The Chairperson shall be the chief elected officer of the Foundation; shall preside at all meetings of the Directors and the Executive Committee; and shall work with the President/CEO to see that all orders and resolutions of the Board are carried into effect. The Chairperson shall execute bonds, mortgages and other documents requiring a seal, under the corporate seal; act as official spokesperson for the Board; serve as an ex-officio member of all the Foundation committees; and annually appoint the Chairs of each Committee.

**Section 6. Role of Vice Chairperson:** The Vice Chairperson(s) shall perform the duties and have the powers of the Chairperson during the Chairperson's absence; serve as an ex-officio member of specific committees; attend functions and meetings to represent the Foundation; and perform such other duties and have such other powers as the Board shall designate.

**Section 7. Role of the Corporate Secretary:** The Corporate Secretary shall assure that there is a record of all sessions of the Board; that the votes of the Foundation and the minutes of all its transactions are in a book to be kept for that purpose; shall perform like duties for all committees of the Board when required; shall give, or cause to be given, notice of all meetings of the Board; shall keep in safe custody the corporate seal of the Foundation, and when authorized by the Board, affix the same to any instrument requiring it; and shall perform such other duties as may be prescribed by the Board or Chairperson.

**Section 8. Role of the Treasurer:** The Treasurer shall have charge of and be responsible for all funds and securities of the Foundation; shall assure that full and accurate accounts are kept of receipts and disbursements in books belonging to the Foundation; shall keep the funds of the Foundation in a separate account to the credit of the Foundation; shall disburse the funds of the

Foundation as may be ordered by the Board, taking proper vouchers for such disbursements; shall render to the Directors an account of all transactions as Treasurer and of the financial condition of the Foundation; and shall perform such other duties as may from time to time be designated by the Board or Chairperson.

## **ARTICLE VI**

### **INDEMNIFICATION AND LIABILITY OF DIRECTORS AND OFFICERS**

**Section 1. Personal Liability of Directors:** A Director of the Foundation shall not be personally liable for monetary damages for any action taken, or any failure to take any action, as a Director except to the extent that by law a Director's liability for monetary damages may not be limited.

**Section 2. Indemnification:** The Foundation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, including actions by or in the right of the Foundation, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a Director or officer of the Foundation, or is or was serving at the request of the Foundation as a Director, officer, employee, agent, fiduciary, or other representative of another Foundation, partnership, joint venture, trust, employee benefit plan or other enterprise, against expenses (including attorneys' fees), judgments, fines, excise taxes and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding unless the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

**Section 3. Advancement of Expenses:** Expenses (including attorneys' fees) incurred by an officer or Director of the Foundation in defending a civil or criminal action, suit or proceeding described in Section 2 shall be paid by the Foundation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall be ultimately be determined that the person is not entitled to be indemnified by the Foundation.

**Section 4. Other Rights:** The indemnification and advancement of expenses provided by or pursuant to this Article shall not be deemed exclusive of any other rights to which those

seeking indemnification or advancement of expenses may be entitled under the Foundation's Articles of Incorporation, any insurance or other agreement, vote of Directors or otherwise, both as to actions in their official capacity and as to actions in another capacity while holding an office, and shall continue as to a person who has ceased to be a Director or officer and shall inure to the benefit of the heirs, executors and administrators of such person.

**Section 5. Security of Indemnification Obligations:** To further effect, satisfy or secure the indemnification obligations provided herein, the Foundation may maintain insurance, including insurance on behalf of any Director, officer, employee or agent, obtain a letter of credit, act as self-insurer, create a reserve, trust, escrow, cash collateral or other fund or account, enter into indemnification agreements, pledge or grant a security interest in any assets or properties of the Foundation, or use any other mechanism or arrangement whatsoever in such amounts, at such costs and upon such other terms and conditions as the Board shall deem appropriate.

**Section 6. Modification:** The duties of the Foundation to indemnify and to advance expenses to a Director or officer provided in this Article shall be in the nature of a contract between the Foundation and each such Director or officer, and no amendment or repeal of any provision of this Article, and no amendment or termination of any security pursuant to Section 5, shall alter, to the detriment of such Director or officer, the right of such person to the advance of expenses or indemnification related to a claim based on an act or failure to act which took place prior to such amendment, repeal or termination.

## **ARTICLE VII - COMMITTEES**

**Section 1. Executive Committee:** The Board may create an Executive Committee of no less than three (3) persons, to be appointed by the Chairperson, all of whom shall be Members of the Board.

**Section 1.01. Duties:** Such Committee shall possess and may exercise all of the powers of the Board in the governance of the affairs of the Foundation, including the responsibility and power to determine the distribution of property of the Foundation, (subject to the provisions of the Articles of Incorporation and these By-Laws), authority over the investment policies with respect to the property of the Foundation, whether held directly or through trustees, custodians or agents, and such other duties and authority as may be delegated to it by the Board. A majority of the members of the Executive Committee present at any meeting shall constitute a quorum. The Executive Committee shall keep full records and accounts of its proceedings and transactions. All action by the Executive Committee shall be reported to the Board at its meeting next succeeding such action and shall be subject to control, revision, and alteration by the Board.

**Section 2. Governance (Nominating) Committee:** The Board shall appoint a Governance and Nominating Committee of not less than three (3) persons who shall hold office for one year, subject to renewal a second year.

**Section 2.01. Duties:** The Governance (Nominating) Committee shall offer the names of the Directors and officers to be elected or to fill vacancies at any meeting of the Board. All nominees offered by the Governance (Nominating) Committee shall be selected with a view to carrying out and accomplishing the purpose stated in Section 2 of Article III pertaining to qualification of Directors.

**Section 3. Finance Committee:** The Board shall appoint a Finance Committee of at least three (3) persons who shall hold office for one year, subject to renewal a second year.

**Section 3.01. Duties:** The Finance Committee shall provide stewardship for the business and budget affairs, shall assure sound investment functions, shall assure a functioning audit process, and shall advise the Board on all matters having financial implications for the Foundation.

**Section 4. Other Committees of the Board:** The Board may provide for such other standing or special committees as it deems desirable and discontinue the same at its pleasure. Each such committee shall consist of at least one (1) or more Directors, and shall have such powers and perform such duties or functions, not inconsistent with law, as may be delegated to it by the Board. Vacancies in such other committees shall be filled by the Board.

**Section 5. Advisory and Other Committees:** The Board may provide for such other ad hoc committees, advisory groups, etc., as it deems desirable, and discontinue the same at its pleasure. Each such committee shall be advisory to the Board and perform such duties or functions, not inconsistent with law, as may be prescribed for it by the Board. Appointments to and the filling of vacancies on such committees shall be made by the Chairperson unless the Board otherwise provides. Any action by each such committee shall be reported to the Board at its next meeting succeeding such action and shall be subject to control, revision, and alteration by the Board. Vacancies in any such committees shall be filled by the Chairperson of the Board.

### **ARTICLE VIII - BOOKS AND RECORDS**

**Section 1. Meeting Records:** The Foundation shall keep an original or duplicate record of the proceedings of the Directors, and the original or a copy of its Articles of Incorporation and By-Laws, including all amendments, certified by the Corporate Secretary of the Foundation.

**Section 2. Accounting Records:** The Foundation shall also keep appropriate, complete and accurate books or records of account. The records provided for herein shall be kept at its principal place of business in the Commonwealth of Pennsylvania, or at its principal place of business, wherever situated.

**Section 3. Annual Report:** The Board shall cause an Annual Report to be prepared for the Foundation, verified by the Chairman and Treasurer, or by a majority of the Directors. Such Annual Report shall be presented annually to the Board and be filed with the minutes of the Meetings of the Board.

**Section 4. Audit:** The books and records shall be audited on an annual basis by an independent auditor and notice of the results of such audit disclosed at a meeting of the Board.

### **ARTICLE IX - GIFTS TO THE FOUNDATION**

**Section 1. Gifts:** The Board may accept on behalf of the Foundation any contribution, gift, bequest or devise for general purposes or for any special purpose of the Foundation.

**ARTICLE X - DISTRIBUTIONS AND DISBURSEMENTS**

**Section 1. Distributions and Disbursements:** The Board, not less frequently than yearly, shall make the following:

**Section 1.01. Distributions:** The Board shall determine any and all distributions to be made from net income and principal of this Foundation (including funds held by trustees, custodians, or agents of the Foundation) pursuant to provisions of the Articles of Incorporation, these By-Laws and the donor's directions. The Foundation shall direct, or authorize the respective trustees, custodians or agents having custody of funds of the Foundation to make payments to organizations or persons to whom payments are to be made, in such amounts and at such times and with such accompanying restrictions, if any, as it deems necessary to assure use for the charitable purposes and in the manner intended.

**Section 1.02. Disbursements:** The Board shall determine all disbursements to be made for administrative expenses incurred by the Foundation and direct the respective trustees, custodians or agents having custody of funds of this Foundation as to payment thereof and funds to be charged.

**Section 2. Distribution of Capital:** The Board may distribute capital from all funds having no restrictions, but shall inform the trustee, custodian, or agent having custody of the funds as far in advance as the Board deems practicable so as to permit the trustee, custodian, or agent to adjust its investment policies accordingly, and may, upon advice from the trustee, custodian, or agent as to how the desired distribution and any necessary liquidation of investments can most economically be accomplished, adjust its directions for distributions so far as it deems practicable accordingly.

**Section 3. Investigation and Research:** The Board shall gather and analyze facts and conduct investigation and research as is necessary in order to determine the most effective agencies and means for meeting the needs of the Delaware County community through application of funds for charitable purposes. The Board may direct disbursements for such fact gathering and analysis, investigation, and research from funds given for such purposes or from funds given without designation as to purpose. Disbursements for other proper administrative expenses incurred by the Board, including salaries for such professional and other assistance as it deems necessary, shall be directed to be paid from any funds designated by the donor for such

purpose, or any balance out of income of the funds of the Foundation or such of its principal as is not specifically restricted against such use.

**Section 4. Creation of New Charitable Organizations:** The Board may, in furtherance of the Foundation's charitable purposes, when needs therefore have been determined, and with appropriate provisions to assure use solely for such purposes, direct distributions to such persons, organizations, governments, or governmental agencies as in the opinion of the Board can best carry out such purposes or help create new qualified charitable organizations to carry out such purposes.

#### **ARTICLE XI - FISCAL YEAR**

**Section 1. Fiscal Year:** The Fiscal year of the Foundation shall be the twelve-month period ending on the last day of June, or such other period as may be designated by the Board.

#### **ARTICLE XII – MISCELLANEOUS CHARITABLE MATTERS**

**Section 1. Political Activity:** As the Foundation is incorporated exclusively for charitable and educational purposes within the meaning of Section 501 ( c ) ( 3 ) of the Internal Revenue Code, no substantial part of its activities shall involve attempting to influence legislation. The Foundation shall not participate or intervene (including the publishing or distribution of statements) in any political campaign on behalf of or in opposition to any candidate for public office.

**Section 2. Conflict of Interest:** Decisions must be made by the Board, or by a Board committee, the members of which do not have a conflict of interest with respect to the transaction at hand. Any Board or committee member who does have a conflict of interest must not be present during the debate and must not vote on the transaction, although he or she may come into the room to answer questions. The following individuals have a conflict of interest:

- a. The disqualified person(s) benefiting from the transaction.
- b. Family members of the disqualified person(s). The following are considered "family:" (i) Spouse; (ii) Brothers or sisters (by whole or half blood); (iii) Spouses of brothers or sisters (by whole or half blood); (iv) Ancestors; (v) Children; (vi) Grandchildren; (vii) Great grandchildren; and (viii) Spouses of children, grandchildren, and great grandchildren.
- c. Anyone who has a material financial interest affected by the transaction.

- d. Anyone who is employed by and under the direction or control of the disqualified person.
- e. Anyone who receives compensation or other payments that are approved by the disqualified person.
- f. Anyone with a reciprocal arrangement with the disqualified person (i.e., the disqualified person has approved or will approve a transaction benefiting that person).

**Section 3. Private Inurement:** No part of its net income or assets shall ever inure to the benefit of its trustees, officers, or other private persons, except that the Foundation shall be authorized and empowered to pay reasonable expenses incurred on behalf of the Foundation. In the event of the sale, dissolution or other termination of the Foundation, neither part of its property nor any right to the proceeds thereof shall be used for the benefit or other private inurement of any such trustees, officers, or other persons.

### **ARTICLE XIII - AMENDMENTS**

**Section 1. Amendment:** These By-Laws may be adopted, amended or repealed by a majority vote of the Board, subject to the terms in Article IV.

### **ARTICLE XIV – DISOLUTION**

**Section 1. Dissolution:** Upon the dissolution of the corporation, the Board of Directors shall, after paying or making provision for payment of all of the liabilities of the corporation, dispose of all the assets of the corporation exclusively for the purposes of the corporation to one or more organizations which shall at the time qualify as tax exempt under section 501 (c) (3) of the Code or to a governmental unit described in Section 170 (c) (1) of the Code as the Board of Directors shall determine. Under no circumstances shall any assets be distributed to directors, officers or employees of the organization. Any such assets not so disposed of shall be disposed of by the Court of Common Pleas of Delaware County, exclusively for such purposes or to one or more such organizations, as said court shall determine.

Revised September 2007