OPTION 2: NO MEMBERS; MAJORITY OF DIRECTORS APPOINTED BY LAKewood CITY OFFICIALS

Under Option 2, there is one governing body – Directors. The organizational documents are written to provide that a City of Lakewood official or body appoints the majority of the Directors (and through this appointment power, the City of Lakewood would exercise some control over the Foundation's activities).

Pros of this Structure

- Having only one governing body streamlines actions; there is no need to determine which body takes which actions or to convene different bodies for different actions.

- Assigning to the City of Lakewood the appointment authority for a majority of the Board gives the City indirect control over the Foundation’s actions and direction.

- This sample of the Code of Regulations gives the City of Lakewood even more control (which may or may not be desirable) by requiring that a majority of city-appointed Directors be included in the majority voting for an action. For example, if there are 7 directors, with 4 appointed by the City and 3 elected by the Board, certain actions requiring a majority vote could not be undertaken if the 3 Board-elected Directors and one City-appointed Director voted for the action. Approval would require at least a majority (4 of 7 Directors) voting for the action and a majority of City-appointed Directors (3 of 4 City-appointed Directors) also voting for the action.

- This added control is not required under the Ohio Nonprofit Corporate Law and may not be desired by the City at all or may be desired only for certain fundamental actions.

Cons of this Structure

This is a popular form of nonprofit governance and really has no detriments.

ILLUSTRATION OF STRUCTURE

City of Lakewood Appointed Directors

Elected Directors

Lakewood Wellness Foundation
CODE OF REGULATIONS

OF

[LAKEWOOD WELLNESS FOUNDATION]

ARTICLE I
MEMBERS

The Corporation shall have no Members, and the Directors shall, for the purposes of any statute or rule of law relating to corporations, be taken to be the Members of the Corporation, and they shall have all the rights and privileges of Members, as provided in Section 1702.14 of the Ohio Revised Code.

ARTICLE II
DIRECTORS

Section 1. Authority and Duties. The Board of Directors shall have general supervision and charge of the property, affairs, and finances of the Corporation. Without limiting the generality of the foregoing, the Board of Directors shall elect the officers of the Corporation.

Section 2. Number, Term of Office, Election, Qualifications, and Removal of Directors. The number of Directors shall be fixed from time to time by the Board of Directors and shall be no less than X and no more than Y. There shall be two classes of Directors: Appointed Directors and Elected Directors. Appointed Directors shall be those individuals selected by [the Mayor of the City of Lakewood] [jointly by the Mayor of the City of Lakewood and the Lakewood City Council]. Elected Directors shall be those individuals elected by the Corporation’s Board of Directors. At all times, a majority of the full number of Directors shall be Appointed Directors.

The President and Chief Executive Officer of the Corporation or the individual assuming the responsibilities of the President and Chief Executive Officer of the Corporation [and the Mayor of the City of Lakewood] [and the President of the Lakewood City Council] shall be ex officio members of the Board of Directors [and all committees of the Board] [but shall not be counted for voting or quorum purposes on the Board or any such committees].

Except for the first term of some of the initial Directors, Directors shall serve for a three (3) year term and until their successors are elected and qualify. The terms of the Directors shall be staggered so that no more than one-third (1/3) plus one (1) of the full number of Directors is elected each year. Except for the ex officio Directors, no individual shall be eligible for re-election as a Director following the completion of three (3) consecutive three (3) year terms; provided that after a lapse of at least one (1) year following completion of three (3) consecutive three (3) year terms such individual may again be eligible for selection as a Director without regard to prior service as such. Partial terms of less than three (3) years shall not be taken into account for purposes of calculating the number of consecutive terms a Director has served. An individual who is elected as an officer of the Corporation and who, by reason of this term limitation, is otherwise ineligible to be re-elected as a Director, shall nonetheless, by reason of election as an officer, automatically continue to serve as a Director for the duration of his or her then term of office as an officer.
Option 2: No Members; Majority of Directors Appointed by Lakewood City Officials

Any Director at any time may be removed from office for any cause deemed sufficient by the Board of Directors pursuant to a vote of the Directors specified in Article II, Section 8(f). Vacancies on the Board of Directors caused by death, resignation, removal from office, or any other cause other than the expiration of a term shall be filled for the unexpired portion of the three (3) year term pursuant to a vote of the Directors specified in Article II, Section 8(f); provided, however, that in filling such vacancies, the Board of Directors shall adhere to the requirement that at all times, at least a majority of the Directors shall be Appointed Directors and that any vacancy in an Appointed Director position shall be filled by [the Mayor of the City of Lakewood] [jointly by the Mayor of the City of Lakewood and the Lakewood City Council].

Section 3. Annual Organization Meeting. The annual organization meeting of the Board of Directors shall take place at such time and on such date each year as the Board of Directors or the Chair shall determine, at the principal offices of the Corporation or at such other place within or without the State of Ohio as the Board of Directors or the Chair shall determine. The purpose of the annual organization meeting shall be to elect the Chair and other officers of the Corporation, to receive the reports of officers and committees of the Board of Directors, if any, and to transact such other business as may properly come before the meeting.

Section 4. Regular Meetings. Regular meetings of the Board of Directors shall be held on such dates and at such times as the Board of Directors or the Chair shall determine. Regular meetings shall be held at the principal offices of the Corporation or at such other place within or without the State of Ohio as the Board of Directors or the Chair shall determine. The purposes of regular meetings of the Board of Directors shall be to consider and act upon any matters which are proper subjects for action by the Board of Directors.

Section 5. Special Meetings. The Chair or a majority of the Directors in office may call a special meeting of the Board of Directors, to be held at any time at the principal offices of the Corporation or at such other place within or without the State of Ohio as the Chair or the Directors calling the meeting shall determine. A special meeting may be held for any purpose that would be a proper purpose of a regular meeting.

Section 6. Notice of Meetings. Not less than ten (10) days before the date fixed for an annual organization or regular meeting of Directors, or two (2) days in the case of a special meeting, written notice stating the date, time, place, and, in the case of a special meeting, the purposes of the meeting shall be given by or at the direction of the Chair or the Directors calling the meeting. The notice shall be given by electronic mail transmission, telefacsimile, personal delivery, or mail using the Directors' respective electronic mail addresses, telefacsimile numbers, or addresses as they appear on the records of the Corporation; provided, however, that notice by electronic mail transmission shall not be effective unless the sender of such transmission (a) retains a hard copy of such transmission and (b) receives or obtains confirmation of the receipt of such transmission by the intended recipient.

Section 7. Quorum. The Directors present at any meeting of the Board of Directors shall constitute a quorum for the transaction of business at any such meeting; provided, however, that no action required by law or by the Articles of Incorporation or this Code of Regulations to be authorized or taken by a designated proportion or number of Directors may be authorized or taken by a lesser proportion or number.
Section 8. Voting Rights of Directors. [Except as provided otherwise with respect to ex officio Directors], each Director shall be entitled to one (1) vote upon any matter properly submitted to the Directors for their vote and no Director shall have veto power. Notwithstanding any provision of the Ohio Nonprofit Corporation Law now or hereafter in force requiring the vote or consent of the Directors of the Corporation for the authorization or taking of any action, such action may be authorized or taken only by the vote or consent of a majority of the Directors present at a meeting at which a quorum is present unless otherwise expressly required by law, the Articles of Incorporation, or this Code of Regulations; provided, however, that the following actions shall require the vote or consent of a majority of the full number of Directors of the Corporation, [which majority shall include a majority of Appointed Directors]:

(a) Merger with another entity;

(b) Sale, transfer, or other disposition of substantially all the assets of the Corporation;

(c) Disposition of assets of the Corporation with a value greater than fifty percent (50%) of the fair market value of the Corporation’s net assets, over a period of thirty-six (36) months or less, in a transaction or series of transactions outside the ordinary course of the Corporation’s business or not in accordance with the purposes for which the Corporation was organized;

(d) Amendment of the Corporation’s Articles of Incorporation, amendment of this Code of Regulations, the adoption of amended and restated Articles of Incorporation for the Corporation, or the adoption of amended and restated Code of Regulations for the Corporation;

(e) Dissolution of the Corporation and distribution of the Corporation’s assets in liquidation; and

(f) Election or removal of Directors of the Corporation or filling of vacancies in Elected Director positions.

Section 9. Waiver of Notice. Notice of the time, place, and purposes of any meeting of the Board of Directors may be waived in writing either before or after the holding of the meeting. The attendance of any Director at any meeting (or participation at a meeting held through the use of telephone or other communications equipment) without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by the Director of notice of the meeting.

Section 10. Action Without a Meeting. Any action which may be authorized or taken at a meeting of the Board of Directors may be authorized or taken without a meeting with the affirmative vote and approval of, and in a writing or writings signed by, all of the Directors, which writing or writings shall be filed with or entered upon the records of the Corporation.
Option 2: No Members; Majority of Directors Appointed by Lakewood City Officials

Section 11. Meetings by Means of Communications Equipment. Meetings of the Directors may be held through the use of any telephone or other communications equipment if all persons participating can hear each other, and participation in a meeting pursuant to this Section 11 of Article II shall constitute presence at such meeting.

ARTICLE III
COMMITTEES

Section 1. Formation of Committees; Power of Committees. The Board of Directors from time to time may elect or appoint committees comprised of a portion of its members; provided, however, that, subject to Article III, Section 3, at all times at least one committee member shall be an Appointed Director of the Corporation. The committees shall serve at the pleasure of the Board of Directors and shall have such authority and perform such duties as from time to time may be determined by the Board of Directors. Unless otherwise determined by the Board of Directors, any committee of the Board of Directors may act by a majority of its members, and any act or authorization of any act by a committee of the Board of Directors within the authority delegated to it shall be as effective for all purposes as the act or authorization of the Board of Directors.

Section 2. Action without a Meeting. Any action which may be authorized or taken at a meeting of any committee of the Board of Directors may be authorized or taken without a meeting with the affirmative vote and approval of, and in a writing or writings signed by, all of the members of the committee, which writing or writings shall be filed with or entered upon the records of the Corporation.

Section 3. Executive Committee. Unless otherwise determined by the Board of Directors, the Board shall form an Executive Committee comprised of the Chair and such other Directors as the Board shall determine; provided, however, that at all times, at least [a majority] of the Executive Committee members shall be Appointed Directors of the Corporation. The Executive Committee shall act in the intervals between meetings of the Board of Directors and, except to the extent determined otherwise by the Board of Directors, shall have all authority of the Board of Directors except the authority to approve those actions described in Article II, Sections 8(a) through 8(f). The Executive Committee shall cause to be kept full and complete records of all meetings and actions, which shall be reported to, and open to inspection by, the Board of Directors.

Section 4. Advisory Committees. The Board of Directors from time to time may appoint committees to review, study, and advise the Board on various matters. Such Advisory Committees may include as members individuals who are not Directors; provided, however, Advisory Committees with members other than Directors of the Corporation shall not be permitted to act for the Board of Directors, and the acts of such Advisory Committees shall not be considered as acts of the Board of Directors.
ARTICLE IV
OFFICERS

Section 1. Election and Designation of Officers. The Board of Directors shall elect a Chair, a Vice Chair, a Secretary, and a Treasurer, and may elect such other officers as the Board of Directors may deem necessary or desirable. Any two (2) or more offices may be held by the same person, but no officer shall execute, acknowledge, or verify any instrument in more than one capacity, if the instrument is required to be executed, acknowledged, or verified by two (2) or more officers. Each of the Chair, Vice Chair, Secretary, and Treasurer shall be a Director.

Section 2. Term of Office; Vacancies. The officers of the Corporation shall hold office until the next annual organization meeting of the Board of Directors and until their successors are elected, except in case of resignation, removal from office, or death. The Board of Directors may remove any officer at any time with or without cause by a majority vote of the full number of Directors. Any vacancy in any office may be filled by the Board of Directors.

Section 3. President and Chief Executive Officer. The Board of Directors may appoint or hire a President and Chief Executive Officer to serve as the Corporation’s chief management employee and may appoint or hire such other management employees as the Board shall determine. The Board may also prescribe the duties of such management personnel and fix their compensation. Unless otherwise determined by the Board of Directors (a) the President and Chief Executive Officer shall also serve as Secretary of the Corporation and (b) the President and Chief Executive Officer may execute all authorized deeds, mortgages, contracts, and other obligations of the Corporation. The President and Chief Executive Officer shall have such other authority and perform such other duties as may be determined by the Board of Directors.

The President and Chief Executive Officer of the Corporation or the individual assuming the responsibilities of the President and Chief Executive Officer shall be an ex officio member of the Board of Directors and all committees of the Board [but shall not be counted for voting or quorum purposes].

Section 4. Chair. The Chair shall preside at all meetings of the Board of Directors. Subject to the direction of the Board, the Chair shall have general supervision over the affairs of the Corporation. The Chair may execute all authorized deeds, mortgages, contracts, and other obligations in the name of the Corporation and shall have such other authority and shall perform such other duties as may be determined by the Board of Directors. The Chair shall be a Director of the Corporation.

Section 5. Vice Chair. The Vice Chair shall act for the Chair in the Chair’s absence and shall have such authority and perform such duties as may be determined by the Board of Directors. The Vice Chair shall be a Director.

Section 6. Secretary. The Secretary shall keep or cause to be kept the minutes of meetings of the Board of Directors. The Secretary shall keep or cause to be kept such books as may be required by the Board of Directors, shall give notices of the meetings of the Board of Directors required by law, by this Code of Regulations, or otherwise, and shall have
Option 2: No Members; Majority of Directors Appointed by Lakewood City Officials

such authority and shall perform such other duties as may be determined by the Board of Directors. Unless otherwise determined by the Board of Directors, the President and Chief Executive Officer shall serve as Secretary of the Corporation.

Section 7. Treasurer. The Treasurer shall cause to be kept, under the Treasurer's supervision, accurate financial accounts and shall hold the same open for inspection and examination by the Directors, shall prepare or cause to be prepared a full report concerning the finances of the Corporation to be presented at each annual organization meeting of the Board of Directors, and shall have such authority and shall perform such other duties as may be determined by the Board of Directors. The Treasurer shall be a Director.

Section 8. Other Officers. The other officers, if any, whom the Board of Directors may elect shall have such authority and perform such duties as may be determined by the Board of Directors.

Section 9. Delegation of Authority and Duties. The Board of Directors is authorized to delegate the authority and duties of any officer to any other officer and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

ARTICLE V
LIMITATION OF LIABILITY IN DAMAGES
AND INDEMNIFICATION

Section 1. Limitation of Liability in Damages of a Director. Other than in connection with an action or suit in which the only liability asserted against a Director is for voting for or assenting to a statutorily proscribed assets distribution or loan (a "Statutorily Proscribed Act"), a Director of the Corporation shall be liable in damages for any action he takes or fails to take as a Director only if it is proved by clear and convincing evidence in a court of competent jurisdiction that his action or failure to act involved an act or omission either undertaken with deliberate intent to cause injury to the Corporation or undertaken with reckless disregard for the best interests of the Corporation.

Section 2. Third Party Action Indemnification. The Corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed civil, criminal, administrative, or investigatory action, suit, or proceeding, including all appeals (other than an action, suit, or proceeding by or in the right of the Corporation), by reason of the fact that he is or was a Director or officer of the Corporation, or is or was serving at the request of the Corporation as a director, trustee, or officer of another domestic or foreign nonprofit corporation or corporation for profit, or a partnership, joint venture, employee benefit plan, trust, or other enterprise, against expenses (including attorneys' fees), judgments, decrees, fines, penalties, and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit, or proceeding, unless it is proved by clear and convincing evidence in a court of competent jurisdiction that his action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Corporation or undertaken with reckless disregard for the best interests of the Corporation and that, with respect to any criminal action or proceeding, he had reasonable cause to believe his conduct was unlawful; the termination
of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, constitute such proof.

**Section 3. Derivative Action Indemnification.** Other than in connection with an action or suit in which the liability of a Director for voting or assenting to a Statutorily Proscribed Act is the only liability asserted, the Corporation 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 or suit, including all appeals, by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a Director or officer of the Corporation, or is or was serving at the request of the Corporation as a director, trustee, or officer of another domestic or foreign nonprofit corporation or corporation for profit, or a partnership, joint venture, employee benefit plan, trust, or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of the action or suit unless it is proved by clear and convincing evidence in a court of competent jurisdiction that his action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Corporation or undertaken with reckless disregard for the best interests of the Corporation, except that the Corporation shall indemnify him to the extent the court in which the action or suit was brought determines upon application that, despite the proof but in view of all the circumstances of the case, he is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

**Section 4. Determinations of Indemnification Rights.** Any indemnification under Section 2 or Section 3 of this Article V (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, trustee, or officer is proper in the circumstances. The determination shall be made (a) by a majority vote of those Directors who in number constitute a quorum of the Directors and who also were not and are not parties to or threatened with any such action, suit, or proceeding or (b), if such a quorum is not obtainable (or even if obtainable) and a majority of disinterested Directors so directs, in a written opinion by independent legal counsel compensated by the Corporation, or (c) by the court in which the action, suit, or proceeding was brought.

**Section 5. Advances of Expenses.** Unless the action, suit, or proceeding is one in which the liability of a Director for voting for or assenting to a Statutorily Proscribed Act is the only liability asserted, expenses (including attorneys' fees) incurred by the Director or officer of the Corporation in defending any action, suit, or proceeding referred to in Section 2 or 3 of this Article V shall be paid by the Corporation, as they are incurred, in advance of the final disposition of the action, suit, or proceeding, upon receipt of an undertaking by or on behalf of the Director or officer in which he agrees both (a) to repay the amount if it is proved by clear and convincing evidence in a court of competent jurisdiction that his action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Corporation or undertaken with reckless disregard for the best interests of the Corporation and (b) to cooperate with the Corporation concerning the action, suit, or proceeding.

**Section 6. Purchase of Insurance.** The Corporation may purchase and maintain insurance or furnish similar protection, including, but not limited to, trust funds, letters of credit, and self-insurance, for or on behalf of any person who is or was a Director, officer, employee, agent, or volunteer of the Corporation, or is or was serving at the request of the
Option 2: No Members; Majority of Directors Appointed by Lakewood City Officials

Corporation as a director, trustee, officer, employee, agent, or volunteer of another domestic or foreign nonprofit corporation or corporation for profit, or a partnership, joint venture, employee benefit plan, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against liability under the provisions of this Article V or of the Ohio Nonprofit Corporation Law. Insurance may be purchased from or maintained with a person in which the Corporation has a financial interest.

Section 7. Heirs; Non-Exclusivity. The limitation of liability in damages and the indemnification provided by this Article V shall continue as to a person who has ceased to be a director, trustee, or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person and shall not be deemed exclusive of, and shall be in addition to, any other rights granted to a person seeking indemnification as a matter of law or under the Articles of Incorporation, this Code of Regulations, any agreement, or any insurance purchased by the Corporation, or pursuant to any vote of the disinterested Directors, or by reason of any action by the Board of Directors to take into account amendments to the Ohio Nonprofit Corporation Law that expand the authority of the Corporation to indemnify a director, trustee, or officer of the Corporation, or otherwise, both as to action in his official capacity and as to action in another capacity while holding an office or position.

Section 8. No Mandatory Indemnification of Volunteers. Section 1702.12(E)(5) of the Ohio Nonprofit Corporation Law shall not apply to the Corporation to the extent that it requires the indemnification of volunteers (as that term is defined in Section 1702.01 of the Ohio Nonprofit Corporation Law) other than Directors or officers of the Corporation or directors, trustees, or officers of another domestic or foreign nonprofit corporation or corporation for profit, or partnership, joint venture, employee benefit plan, trust, or other enterprise serving at the request of the Corporation.

ARTICLE VI
AMENDMENTS

This Code of Regulations of the Corporation may be amended, or new Regulations may be adopted, by action of the Directors in accordance with Section 1702.14 of the Ohio Revised Code (a) at a meeting of the Board of Directors held for that purpose, by the affirmative vote of a majority of the full number of Directors of the Corporation[, which majority shall include a majority of the Appointed Directors of the Corporation] or (b) without a meeting, by the written consent of all the Directors.

ARTICLE VII
FISCAL YEAR

The fiscal year of the Corporation shall end on December 31 of each year or on such other date as may be fixed from time to time by the Board of Directors.