

OPTION 3: FOUNDATION IS A SUPPORTING ORGANIZATION OF ANOTHER PUBLIC CHARITY

This is the structure that would likely be used if the Foundation were structured as a supporting organization of another charity, *e.g.*, the Cleveland Foundation. Most charities serving as the sponsoring organization for a supporting organization require that a majority of the Directors be appointed by the sponsoring organization so that the sponsoring organization can achieve the control of the supporting organization required by the IRS.

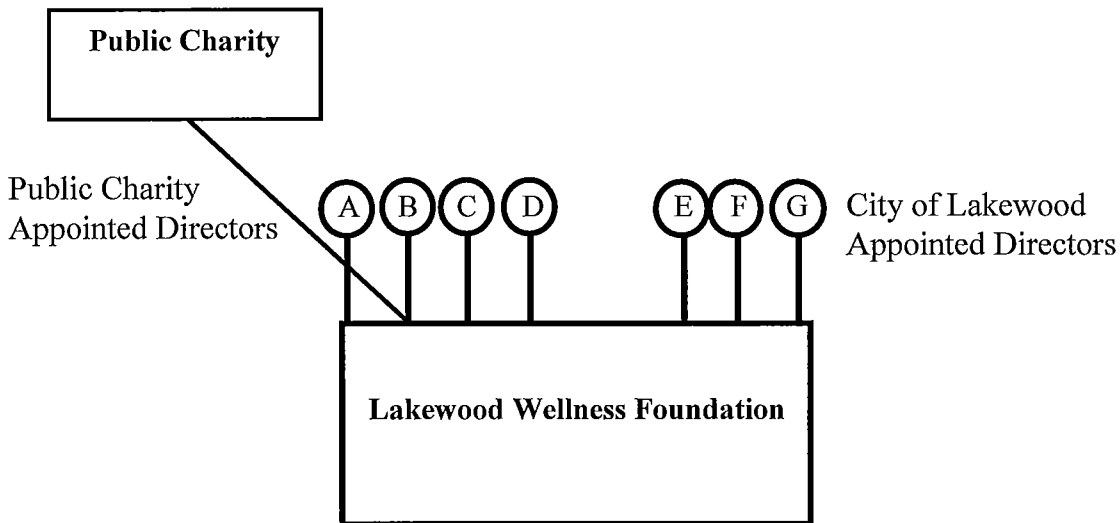
Pros of this Structure

- If the Foundation were formed as a supporting organization of another public charity, the public charity it supports typically would assume all the administration, tax filings and compliance, state law filings and compliance, maintenance of corporate records, and other administrative and management responsibilities.
- This relieves the Foundation of a lot of time-consuming responsibility.
- Being a supporting organization of another charity essentially places the City of Lakewood in a role of advising on the expenditure of funds without the headaches of operating the Foundation.

Cons of this Structure

- In exchange for ease of administration, the City of Lakewood gives up control.
- Under the guidelines of most public charities that sponsor a supporting organization, the charity will control the Board of the supporting organization.
- If the City of Lakewood desires to “own” the direction of the Foundation, it would need to engage in very careful discussions with the public charity the Foundation supports before it advances this strategy.

ILLUSTRATION OF STRUCTURE



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, Classes, Term of Office, Appointment, Qualifications, and Removal of Directors. The number of Directors shall be fixed from time to time by the Directors. The Directors shall be divided into two (2) classes designated as Public Directors and City of Lakewood Directors. There shall be at least X Public Directors and no less than Y City of Lakewood Directors. At all times, at least a majority of the full number of Directors shall be Public Directors.

City of Lakewood Directors shall be selected by [the Mayor of the City of Lakewood] [jointly by the Mayor of the City of Lakewood and the Lakewood City Council].

The Public Directors shall be appointed by ABC Charity, an Ohio public benefit corporation tax exempt as an organization described in Section 501(c)(3) and Section 509(a)(1) of the Internal Revenue Code of 1986, as amended. Public Directors shall be Individuals with expertise in community health, population health, and other areas of expertise determined by the Board to be relevant to advancing the health of the residents of the City of Lakewood.

Each Director: (i) shall hold office for a term of three (3) years and until his or her successor is elected and qualified or until his or her earlier resignation, removal from office, or death; and (ii) shall not be eligible for re-election following the completion of X consecutive three (3) year terms.

Any Director at any time may be removed from office by majority vote of the full number of Directors (excluding the Director whose removal is proposed) for any cause they deem sufficient. If a vacancy in a Public Director or City of Lakewood Director position caused by death, resignation, removal from office, or any other cause other than the expiration of a term is to

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be filled, such vacancy shall be filled by the body responsible for electing that class of Directors pursuant to this Code of Regulations.

Section 3. Quorum. The presence of Z percent (Z%) of the Directors shall constitute a quorum for the transaction of business at any meeting of the Directors; 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 4. Voting Rights. Each Director shall be entitled to one vote upon any matter properly submitted to the Board of Directors for its vote. Unless otherwise expressly required by law, the Articles of Incorporation, or this Code of Regulations, any and all actions of the Board of Directors may be authorized or taken by the vote or consent of a majority of the full number of Directors of the Corporation.

Section 5. Meetings of Directors. The annual meeting of the Board of Directors shall be held at such time and on such date each year as the Board of Directors or the President shall determine. Special meetings of the Board of Directors may be called by the President or any two (2) Directors.

Section 6. Notice of Meetings of Board of Directors. Written notice of the time and place of each meeting of the Directors shall be given not less than two (2) days nor more than sixty (60) days before the date of such meeting to each Director, which notice need not specify the purpose of the meeting. Such notice shall be given either 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. The giving of notice shall be deemed to be waived by any Director who shall attend and participate in such meeting and may be waived, in writing, by any Director either before or after such meeting.

Section 7. Committees. The Board of Directors of the Corporation may, from time to time, create an executive committee and other committees of the Board of Directors, each to consist of not less than Z Directors, and may delegate to any such committee any of the authority of the Board of Directors, provided that: (i) at least one member of any such committee shall be a Donor Director; and (ii) at least a majority of the members of any such committee with Board delegated powers shall be Public Directors. Each such committee shall serve at the pleasure of the Board of Directors, and shall be subject to the control and direction of the Board of Directors. Each such committee may act by a majority of its members. An act or authorization of an act by any such committee within the authority delegated to it shall be as effective for all purposes as the act or authorization of the Board of Directors.

Section 8. 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. Any transmission by authorized communications equipment, including electronic mail, that contains an affirmative vote or approval of a Director shall constitute a signed writing for purposes of this Section 8 of Article II.

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Section 9. Meetings by Means of Authorized Communications

Equipment. Meetings of the Directors may be held through the use of any authorized communications equipment if all persons participating can contemporaneously communicate with each other, and participation in a meeting pursuant to this Section 9 of Article II shall constitute presence at such meeting.

ARTICLE III
OFFICERS

Section 1. Election; Term of Office. The officers of this Corporation shall consist of a President, a Vice President, a Secretary, a Treasurer, and such other offices as the Directors shall from time to time designate. Any two (2) or more offices may be held by the same person. Officers shall hold office until the next annual meeting of the Board of Directors and until their successors are elected and qualified, except in the case of resignation, removal from office, or death. All officers, except the Secretary, shall be Directors of the Corporation.

Section 2. Duties. All officers shall have such authority and perform such duties as from time to time shall be determined by the Directors.

Section 3. Removal. Any officer may be removed with or without cause by the Directors.

ARTICLE IV
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 investigative 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

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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

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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 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 V
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, provided that a majority of the full number of Public Directors are included among the Directors voting for the amendment or adoption, or (b) without a meeting, by the written consent of all the Directors.

ARTICLE VI
FISCAL YEAR

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