

PARK COUNTY  

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**COMMUNITY**  

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FOUNDATION

**BYLAWS**

**OF**

**PARK COUNTY COMMUNITY FOUNDATION**

**(a Montana Nonprofit Public Benefit Organization)**

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**ARTICLE I. CORPORATION NAME, PURPOSES, POWERS, OFFICES**

**Section 1. Name**

The legal name of the Corporation is the Park County Community Foundation.

**Section 2. Authority**

The Corporation is incorporated as a nonprofit, public benefit organization under, and is operated according to, the Montana Nonprofit Corporation Act (Title 35, Chapter 2 of the laws of Montana).

**Section 3. Purposes**

The Corporation is organized and operated exclusively for charitable, scientific, and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. Specifically, the purpose of the Corporation is to enhance the vitality, health, and quality of life of people living in Park County and surrounding communities.

**Section 4. Powers**

The Corporation shall have and exercise all rights and powers conferred on non-profit public benefit organizations under the Montana Nonprofit Corporation Act; provided, however, that the Corporation shall not engage in any activities or exercise any powers that are not in furtherance of the primary purposes of the Corporation.

**Section 5. Members**

The corporation shall have no members.

## **Section 6. Location and Registered Office**

The principal office of the Corporation shall be located in Park County, Montana. The Corporation's registered office, required by the Act to be maintained in Montana, may be, but need not be, identical with the principal office. The address of the registered office and of the registered agent may be changed by resolution of the Board of Directors.

## **ARTICLE II. REGULATION OF CORPORATE ACTIVITIES AND DISTRIBUTIONS**

### **Section 1. Restricted Activities**

- (a) No substantial part of the Corporation's activities shall involve efforts to influence legislation, and the Corporation shall not participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office.
- (b) No Director, officer, employee, or representative of the Corporation shall take any action or carry on any activity on behalf of the Corporation that is not permitted under Section 501(c)(3) of the Internal Revenue Code and its Regulations, nor consistent with the provisions of the Montana Nonprofit Act (the "Act") under which the Corporation operates.
- (c) No part of the net earnings, properties, or assets of this Corporation, on dissolution or otherwise, shall inure to the benefit of, or be distributable to, its Directors, officers, or other private person or individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article I, Section 3.

## **ARTICLE III. BOARD OF DIRECTORS: POWERS. COMPOSITION**

### **Section 1. Powers, Responsibility, Conduct**

- (a) The Board of Directors shall have supervision, control, and direction over the affairs of the Corporation, shall actively promote and pursue the Corporation's mission and goals, and shall supervise the disbursement of the Corporation's funds. The Board may appoint an Executive Director for the Corporation and may delegate to that Officer such authority as the Board deems appropriate.
- (b) The Board of Directors has final authority over the raising, management, and disposition of funds through which the Corporation carries out its programs, activities, and operations, and establishes the policies through which this authority is translated into action. While implementation of these policies may be delegated to Board committees, Corporate officers, or staff, the Board retains final authority in all cases.

- (c) The Board may adopt such rules and regulations for the conduct of its business as shall be deemed advisable, and may, in the execution of the powers granted, delegate certain of its authority and responsibility to one or more committees (see Article V). The Board shall consider and act upon all committee recommendations, and may also consider such other matters regarding the Corporation as it deems appropriate, or as are requested for consideration by the Executive Director.
- (d) Directors shall discharge their Board duties in good faith: (i) with the care that a prudent person in a similar position would exercise under similar circumstances; (ii) in a manner that is, in all cases, in the best interest of the Corporation; and (iii) consistent with policies established by the Corporation governing conflicts of interest (see Article X), confidentiality, and behavior toward members of the community, donors, grantees, and staff.

## **Section 2. Composition and Manner of Selection**

- (a) *Criteria for Election.* Individuals being considered for election to the Board shall be evaluated on the basis of their ability to: (i) be fully committed to the purposes of the Corporation; (ii) help the Board achieve the level of perspective, judgment, experience, expertise, and maturity it needs to fulfill its significant governance obligations; and (iii) actively contribute the time and energy required to advance the organization's mission and goals.
- (b) *Board Size.* The Board shall consist of no fewer than seven nor more than fifteen members, as shall be fixed from time to time by resolution of the Board of Directors.
- (c) *Election Process and Timing.* Individuals shall be elected to the Board of Directors by a majority of the Directors then in office.

## **Section 3. Terms and Tenure of Office**

- (a) *Terms and Tenure.* No Director may serve more than three (3) consecutive terms. Directors may serve a maximum of three (3) three-year terms for a maximum of nine years. Directors who have served three (3) consecutive terms are not eligible for re-election until two years following the date that the previous term ended.
- (b) *Criteria for Re-election to the Board.* There is a level of participation that is expected of all Directors, and which is evaluated when Directors are considered for re-election after completion of their first term as a Director. The criteria used for considering Director for re-election to a succeeding term include: (i) level of attendance in Board and committee meetings; (ii) degree of preparation for all Board and committee discussions, decisions, and actions; and (iii) degree of engagement in all aspects of the Board's governance activities.

## **Section 4. Vacancies**

Any vacancy occurring in the Board of Directors because of death, resignation, removal, disqualification, or otherwise, or any Directorship to be filled by reason of an increase in the number of Directors, shall be filled by the Board of Directors at any of its meetings.

## **Section 5. Removal**

A Director may be removed, with or without cause, if a majority of the Directors present at a duly constituted meeting vote for the removal. Additionally, a Director may be removed for three consecutive unexcused absences from meetings of the Board of Directors.

## **Section 6. Resignation**

A Director may resign at any time by delivering written notice to the Chair of the Board of Directors. Unless the notice specifies a later effective date, a resignation is effective when the notice is delivered.

## **Section 7. Compensation of Directors**

No Director shall receive any compensation from the Corporation for services rendered as a Director. Directors may be reimbursed for any reasonable expenses incurred by them in the execution of their official duties, including travel expenses. Nothing contained herein shall be construed as precluding any Director from serving the Corporation in any other capacity and receiving appropriate compensation for personal services rendered that are reasonable and necessary to carry out one or more of the tax exempt purposes of the Corporation.

# **ARTICLE IV. BOARD OF DIRECTORS: MEETINGS, VOTING**

## **Section 1. Regular Meetings**

The Board of Directors shall hold regular meetings on a designated day to be established by the Board. If a quorum of the Board is unable to attend a regular meeting, the meeting may be rescheduled or canceled by the Board Chairman.

## **Section 2. Special Meetings**

Special meetings may be held by the Board of Directors at the discretion of the Board Chairman, or upon the written request of any two members of the Board.

## **Section 3. Annual Meeting**

The Corporation's annual meeting shall be held at the first scheduled meeting of each year.

## **Section 4. Meetings by Tele-Conference or Other Communications Technology**

The Board may conduct some of its meetings via conference calls or other technology that permits people participating in the meeting to hear each other simultaneously, and may permit any or all Directors to participate in in-person meetings via such means. A Director participating in the meeting by conference call or other technology is deemed to

be a full, voting participant in the meeting. The chair of the meeting may establish reasonable rules as to conducting the meeting by telephone or other technology.

## **Section 5. Notice of Board Meetings**

- (a) *Necessity of Notice.* Written, printed or electronic notice of every annual, regular, and special meeting of the Board of Directors, stating the date, time and place, but not necessarily the purpose of the meeting, must be given to each Director *not less than two days* prior to the date of the meeting. Regardless of whether the meeting is a regular meeting or a special meeting, if a purpose of the meeting is to consider: (i) an amendment to the Articles of Incorporation; (ii) a plan of merger, (iii) the sale, lease, exchange, or disposition of all, or a substantial portion of the Corporation's property, or (iv) the dissolution of the Corporation, then a notice must be given to each Director *at least seven days* before the meeting stating the purpose, and the notice must be accompanied by a copy of or summary, if applicable, of the proposed amendment to the Articles of Incorporation, the proposed plan of merger, the transaction for the disposition of the Corporation's property, or proposed plan of dissolution.
- (a) *Effective Date.* If mailed, notice of any meeting shall be deemed to be effective at the earlier of: (i) five days after the notice being deposited in the United States mail, addressed to the Director's business office, with postage prepaid; (ii) the date shown on the return receipt (if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the Director); or (iii) the date when received.
- (b) *Waiver of Notice.* Any Director may waive notice of any meeting. The waiver must be in writing, signed by the Director entitled in the notice, and filed with the minutes or corporate records. A Director's attendance at a meeting waives the Director's right to object to lack of notice or defective notice of the meeting unless the Director, at the beginning of the meeting (or promptly upon arrival), objects to holding the meeting or transacting business at the meeting, and does not vote for or assent to action taken at the meeting.

## **Section 6. Quorum**

A majority of the members of the Board of Directors then in office shall constitute a quorum at all meetings of the Board of Directors. No action shall be taken unless a quorum is present.

## **Section 7. Manner of Acting**

Unless otherwise provided by the Act, the Articles of Incorporation or these Bylaws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Each Director shall have one vote.

## **Section 8. Actions Without Meeting**

Any action required or permitted to be taken at a meeting of Directors may be taken without a meeting if agreed to in writing by all of the Directors eligible to vote on the matter. Such consent shall have the same effect as a unanimous vote. Accordingly, voting by e-mail or

other electronic means is allowable and valid if such voting method is approved by a majority of the Directors eligible to vote on the matter.

### **Section 9. Presumption of Assent**

A Director who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless: (i) the Director's dissent is entered in the minutes of the meeting; (ii) a written dissent to such action is filed with the person acting as the secretary of the meeting before the adjournment thereof; or (iii) such dissent is forwarded by registered mail to the secretary of the Corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a Director who voted in favor of such action.

### **Section 10. Proxy Voting**

Proxies and proxy voting shall not be allowed on behalf of any Board member.

## **ARTICLE V. BOARD COMMITTEES**

### **Section 1. Committees**

The Corporation may have as many committees of the Board of Directors as the Board may deem necessary to carry out its responsibilities and duties. Standing or ad hoc committees are established by majority vote of the Board.

### **Section 2. Committee Membership**

- (a) Members of committees of the Board of Directors are appointed by a majority vote of the Board.
- (b) Chairs of Board committees are appointed by the Board Chairman.
- (c) Board committees shall include no fewer than two Directors. Individuals who are not members of the Board of Directors may serve on Board committees. However, the Chair of every Board committee must be a Director.

### **Section 3. Powers and Restrictions**

Board committees shall exercise those powers designated by the Board of Directors as described in the charter establishing the committee. However, a committee may not: (i) approve the dissolution, merger, or the sale, pledge, or transfer of all or substantially all of the Corporation's assets; (ii) elect, appoint, or remove Directors or fill vacancies on the Board or on any of its committees; or (iii) adopt, amend, or repeal the Articles of

Incorporation or Bylaws.

#### **Section 4. Committee Meetings**

The sections of these Bylaws which govern meetings, notice and waiver of notice, quorum and voting requirements, conduct of the Board, and action without meetings apply to Board committees and their members. In addition, committees shall keep regular minutes of their proceedings and report the same to the Board. Committees are subject to all procedural rules governing the operation of the Board itself.

### **ARTICLE VI. OFFICERS OF THE CORPORATION**

#### **Section 1. Number and Qualifications of Officers**

The officers of the Corporation shall be a Chairman, a Vice Chairman, a Secretary, and a Treasurer/CFO. The Board may elect other officers and assistant officers if the Board deems it necessary or desirable to do so. If the Board specifically authorizes an officer to appoint one or more officers or assistant officers, the officer may do so. Any two offices, except the offices of Chairman and Treasurer/CFO, may be held by the same person.

#### **Section 2. Duties of Officers**

The duties and powers of the officers of the Corporation shall be as follows or shall hereafter be set by resolution of the Board of Directors:

*Chairman.* The Board of Directors shall, by majority vote of the entire Board, appoint from the Directors, a Chairman (the "Chair"). The Chair shall be the principal executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. The Chair shall preside at all meetings of the officers of the Corporation and of the Board of Directors, and may sign any deed, mortgage, bond, contract or other instrument, unless the Board of Directors has expressly granted the authority for such signing and execution to another officer or agent of the Corporation. The Chair shall be responsible for hiring and firing employees of the Corporation in consultation with the Executive Committee. The Chair shall perform all duties incident to the office of Chair and such other duties as may be prescribed by the Board of Directors from time to time.

*Vice Chair.* The Board of Directors may, by majority vote of the entire Board, appoint from the Directors, a Vice Chair. The Vice Chair may assume the duties of the Chair in the absence of the Chair and assume such other duties as may be assigned by the Chair or by the Board of Directors.

*Secretary.* The Secretary shall in good faith: (i) create and maintain one or more books for the minutes of the proceedings of the Board; (ii) provide that all notices are served in accordance with these Bylaws or as required by law; (iii) be a custodian of the Corporate records; (iv) when requested or required, authenticate any records of the Corporation;

and

(v) in general, perform all duties incident to the office of Secretary and any other duties that the President or the Board may assign to the Secretary.

*Treasurer/CFO.* The Treasurer/CFO shall: (i) have charge and custody of, and be responsible for, all funds and securities of the Corporation; (ii) receive and give receipts for

moneys due and payable to the Corporation from any source, deposit all moneys in the Corporation's name in banks, trust companies, or other depositories that the Board shall select; and (iii) in general, perform all of the duties incident to the office of Treasurer/CFO and any other duties that the President or Board may assign.

### **Section 3. Election and Term of Office**

The Board shall elect officers of the Corporation for one-year terms. Each officer shall hold office until a successor is duly elected and qualified or until he or she resigns, dies, or is removed in a manner as provided for in Article VI, Section 4. A designation or a specified term does not grant to the officer any contract rights, and the Board can remove the officer at any time prior to the termination of the designated term.

### **Section 4. Removal of Officers**

The Board may remove any officer or agent at any time, with or without cause. The removal shall be without prejudice to the contract rights, if any, of the person removed. The election or appointment of any officer or agent by the Board shall not of itself create contract rights.

### **Section 5. Vacancies**

All vacancies in any office shall be filled promptly by the Board of Directors either at a regular meeting or at a special meeting called for that purpose.

### **Section 6. Compensation of Officers**

Officers may receive reasonable salary or compensation as may be fixed by the Board of Directors.

## **ARTICLE VII. STAFF**

### **Section 1. Board Authority**

The Board of Directors has the authority to establish paid staff positions deemed necessary to achieve the mission and goals of the Corporation, and to abolish such positions when they are deemed no longer necessary to the operation of the Corporation.

### **Section 2. Executive Director**

The Board of Directors has the authority to hire, and fire, an Executive Director, to manage

the Corporation in accordance with policies and limitations established by the Board. The Board shall determine the title, duties, compensation, annual goals, performance evaluation criteria, and other terms of employment of such the Executive Director.

### **Section 3. Other Employees**

The Board's authority to hire and fire other employees of the Corporation may be delegated to the Executive Director, with Board oversight through its evaluation of the Executive Director's performance. The Executive Director shall determine the title, duties, and compensation of such employees in consultation with the Executive Committee.

### **Section 4. Personnel Policies**

The Board of Directors shall approve the general terms and conditions of employment for all employees, compiled in a set of personnel policies that are approved and regularly reviewed by the Board. Changes in personnel policies may be recommended by the Executive Director, but can only be undertaken by approval by a majority of the Board of Directors.

## **ARTICLE VIII. CONTRACTS, LOANS, CHECKS AND DEPOSITS, SPECIAL CORPORATE ACTS, GIFTS TO THE FOUNDATION, VARIANCE POWER**

### **Section 1. Contracts**

The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute or deliver any instruments in the name of and on behalf of the Corporation and such authorization may be general or confined to specific instruments.

### **Section 2. Loans**

The Corporation shall not allow anyone to contract on behalf of it for indebtedness for borrowed money unless the Board authorizes such a contract by resolution. The Corporation shall not allow anyone to issue evidence of the Corporation's indebtedness unless the Board authorizes the issuance by resolution. The authorization may be general or specific. The Corporation shall make no loans to any Directors or officers.

### **Section 3. Checks, Drafts, Orders for Payment**

All bank accounts and deposit accounts shall be in the name of the Corporation, and, unless specifically directed by the Board of Directors, such depositories may be designated by the Chair of the Corporation. The Board shall authorize by resolution which officers or agents may sign and issue all Corporation checks, draft or other orders for payment.

### **Section 4. Investments**

The Corporation shall have the right to retain all or any part of any securities or property

acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgment of the Board, without being restricted to the class of investments which a Director is, or may hereafter be, permitted by law to make or any similar restriction; provided, however, that no action shall be taken by, or on behalf of the, Corporation if such action would result in the denial of the tax exemption under Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist, or as they may hereafter be amended. The Board may delegate to the Treasurer/CFO the day-to-day management of such investments as the Board may authorize.

### **Section 5. Gifts**

Any individual, corporation, trust, estate, or other legally recognized entity may make a gift, bequest, devise or other transfer to the Park County Community Foundation for the purposes of establishing a Fund by a transfer to the Community Foundation of cash or other

assets to the Community Foundation for the benefit of the Fund to be established. All additional gifts, bequests, and devices made to the Community Foundation for the benefit of the Fund shall be irrevocable and subject to the terms and conditions established by the Community Foundation.

### **Section 6. Variance Power**

The Board of Directors of the Park County Community Foundation may modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if in the sole judgement of the Board (without the necessity of the approval of any participating trustee, custodian or agent) such restriction or condition becomes in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of Park County, Montana, and the surrounding region. The Board shall exercise this power at a meeting by the majority vote of the members of the Board.

## **ARTICLE IX. INDEMNIFICATION AND ADVANCE FOR EXPENSES**

### **Section 1. Mandatory Indemnification**

The Corporation shall indemnify a Director or former Director, who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party

because he or she is or was a Director of the Corporation, against reasonable expenses incurred by him or her in connection with the proceedings.

### **Section 2. Permissible Indemnification**

The Corporation shall indemnify a Director or former Director made a party to a proceeding because he or she is or was a Director of the Corporation, against liability incurred in the proceeding, if determination to indemnify him or her has been made in the manner prescribed by the Act and payment has been authorized in the manner prescribed by the Act.

### **Section 3. Indemnification of Officers, Agents and Employees**

An officer of the Corporation who is not a Director is entitled to mandatory indemnification under this Article to the same extent as a Director. The Corporation may also indemnify and advance expenses to an officer, employee, or agent of the Corporation who is not a Director to the same extent as a Director or to any extent, consistent with the Act and public policy that may be provided by the general or specific action of the Board or by contract.

### **Section 4. Insurance**

The Corporation may purchase and maintain insurance: (i) to insure itself with respect to the indemnification payments it is authorized or obligated to make pursuant to this Article; and (ii) on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust, employee

benefit plan or other enterprise. The purpose of such insurance is to insure against any liability asserted against person and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify the person against such liability under the provisions of this Article.

### **Section 5. Advance for Expenses**

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of (a) a written affirmation from the Director, officer, employee or agent of his or her good faith belief that he or she is entitled to indemnification as authorized in this Article, and (b) an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Corporation authorized in this article.

## **ARTICLE X. CONFLICT OF INTEREST**

### **Section 1. Conflict of Interest**

A Director shall disclose to the Board of Directors any material interest which the Director directly or indirectly has in any person or entity which is a party to a transaction under consideration by the Board of Directors. The interested Director shall abstain from voting on the transaction and not be present during the voting process. However, the Director's presence may be counted in determining whether a quorum is present for purposes of Article IV, Section 6 of these Bylaws.

### **Section 2. Approval of Conflict of Interest Transactions**

A transaction in which a Director has a conflict of interest may be approved:

(a) In advance of the vote of the Board of Directors or a committee of the Board if: (i)

the material facts of the transaction are disclosed or known to the Board or committee of the Board; and (ii) the Directors approving the transaction in good faith reasonably believe that the transaction is fair to the Corporation; or

- (b) Before or after the transaction is consummated by obtaining approval of: (i) the attorney general; or (ii) a state district court in any action in which the attorney general is joined as a party.

## **ARTICLE XI. MISCELLANEOUS**

### **Section 1. Books and Records**

The Corporation shall keep correct and complete books and records of accounts and shall keep minutes of the proceedings of the Board and committees having any of the authority of the Board. All books and records of the Corporation may be inspected by any Director, or his or her agent or attorney, for any proper purpose at any reasonable time at the main office of the Corporation.

### **Section 2. Fiscal Year**

The fiscal year shall begin January 1 and end on December 31 each year, unless otherwise established by the Board.

### **Section 3. Amending Bylaws**

The Bylaws of the Corporation may be altered, amended, added to, or repealed by majority vote of the entire Board as is necessary or appropriate to carry out the purposes of the Corporation to the fullest extent permitted by law. No such alteration, amendment, repeal or adoption shall in any way conflict with the purposes of the Corporation as stated in its Articles of Incorporation or otherwise cause the Corporation to lose its qualification as an organization described in Section 501(c)(3) of the Internal Revenue Code.

### **Section 4. Dissolution**

The Corporation will not be dissolved while any assets remain in its control, or any obligations remain unpaid, and until a notice of the discontinuance or dissolution has been filed with the appropriate regulatory authorities. In the event of dissolution, unexpected balances of funds shall be disposed of in any manner authorized by law, which does not inure to the personal benefit of any contributor or officer of the Corporation.

## **ARTICLE XII. BOARD SELF-ASSESSMENT**

The board of directors will conduct a self-assessment survey of the board and its members every two years beginning 2018 to identify opportunities and or weaknesses in the organization. The results will be shared with all board members and the Executive Director.

