



*A People Place, A Change of Pace*  
**SHELBURNE**  
ONTARIO, CANADA

---

<b>Meeting Date:</b>	Monday, February 28, 2022
<b>To:</b>	Mayor Mills and Members of Council
<b>From:</b>	Denyse Morrissey, Chief Administrative Officer
<b>Report:</b>	CAO 2022-02
<b>Subject:</b>	Dufferin Community Foundation – New Shelburne Community Fund

---

## Recommendation

Be it Resolved that Council:

1. Receives report CAO 2022-02 Dufferin Community Foundation – New Shelburne Community Fund; and that
2. The contribution by the Town of Shelburne of \$1,000 to establish the new Shelburne Community Fund be approved and funded from the municipal grant funding reserve; and that
3. Leave be given for the reading and enacting of Bylaw #08-2022 being a bylaw to authorize the Town of Shelburne to enter into the Shelburne Community Fund Agreement with The Dufferin Community Foundation to establish a new Shelburne Community Fund.

## Background

The Dufferin Community Foundation made a presentation to Council on October 4, 2021. In addition to providing an overview and update of the Foundation's activities, it was requested that the Town of Shelburne, like the Township of Mulmur has done, establish a new Community Fund for Shelburne.

The link to the October 4, 2021, Council meeting is:

<https://calendar.shelburne.ca/meetings/Detail/2021-10-04-1830-Council-Meeting/8115fc10-e10d-4969-967f-adb300d52f7f>

## Analysis

Staff have worked with the Dufferin Community Foundation, a registered charity, to finalize a Named Fund Agreement to establish a new Shelburne Community Fund.

The Shelburne Community Fund is based on:

- The interest income earned is used to provide grants to qualified projects to charities or deemed charities, or in partnership with a deemed charity that will enhance the quality of life for the residents of the Town of Shelburne.
- That the benefit of any approved project(s) must accrue, as much as possible, to the entire Town of Shelburne community at large and not to an individual(s), designated or otherwise.
- Any approved project(s) shall take place primarily within the Town of Shelburne.
- The Disbursement Income of the Fund shall not be used to support the ongoing operations or services normally provided by the Town of Shelburne.

To establish the new Shelburne Community Fund, it is recommended that the Town of Shelburne contribute \$1000.

It will also take a number of years for the Fund to grow and will need other donations or bequeaths (which is likely to also come from estate planning) to support grants being distributed. Any donations to the Shelburne Community Fund will be issued a charitable tax receipt by the Dufferin Community Foundation.

As outlined in the agreement, the Fund is based on that no disbursement income shall be disbursed until the Fund holds a minimum of twenty thousand Canadian dollars (Cdn. \$20,000.00) in original capital and additional capital for at least one (1) full calendar year.

The agreement, as recommended to Council, was also reviewed by the Town's solicitor.

The Shelburne Community Fund Agreement is provided in Appendix 1.

The bylaw #08-2022 to enter into the funding agreement is provided in Appendix 2.

### Policies & Implications

Not applicable

### Consultation and Communications

Not applicable

### Financial

It is recommended that the Town of Shelburne contribute \$1,000 to establish the Shelburne Community Fund with the Dufferin Community Foundation and that it be funded from the municipal grant funding reserve.

A municipal grant funding reserve was established in 2021 with the return of \$1,000 from an organization that would not be proceeding with the initiative that was provided with grant funding. There is no impact to the approved 2022 operating budget.

### Council Strategic Priorities

Council's Strategic Priorities has three Goals - Sustainable, Engaged and livable. There are a total of 12 targets with the three Goals.

This report aligns with the Engaged Goals within the Target:

Target T7 Promote partnerships and collaboration

### Supporting Documentation

Appendix 1: Shelburne Community Fund Agreement with The Dufferin Community Foundation to establish a new Shelburne Community Fund.

Appendix 2: Bylaw #08-2022 being a bylaw to authorize the Town of Shelburne to enter into the Shelburne Community Fund Agreement with The Dufferin Community Foundation to establish a new Shelburne Community Fund.

Respectfully submitted:

---

Denyse Morrissey, CAO

**SHELBURNE COMMUNITY FUND AGREEMENT**

**THE SHELBURNE COMMUNITY FUND AGREEMENT** is entered into as of the 28 day of February, 2022 (“Agreement”)

**BETWEEN**                **THE CORPORATION OF THE TOWN OF SHELBURNE**  
(hereinafter referred to as the “Donor” or “Town of Shelburne”)

**AND**                    **DUFFERIN COMMUNITY FOUNDATION**  
(hereinafter referred to as the “Foundation”)

**WHEREAS** the Donor intends to make a gift of one thousand Canadian dollars (Cdn. \$1000) to the Foundation;

**AND WHEREAS** the Foundation is a registered charity under the *Income Tax Act* (Canada) under charitable registration number 780219911 RR 0001;

**AND WHEREAS** the Donor is a registered municipality under the *Income Tax Act* (Canada);

**AND WHEREAS** the Donor intends to use such gift to establish a named perpetual endowed fund in trust with the Foundation to be used for its charitable purposes and upon the terms and conditions as hereinafter set forth;

**AND WHEREAS** it is contemplated that further donations to the said named perpetual endowed fund may be received from time to time predominantly from other persons, and possibly the Donor;

**AND WHEREAS** the Foundation desires to accept the gift and to stand seized and possessed of the named perpetual endowed fund upon the terms and conditions hereinafter set forth;

**NOW THEREFORE** the parties hereto agree as follows:

**SECTION I**

**THE GIFT**

**1.01**    The Donor is making, and the Foundation agrees to accept a gift of capital from the Donor on the date of this Agreement in the amount of one thousand Canadian dollars (Cdn. \$1,000) (the “Original Capital”), which amount, and any additional capital (the “Additional Capital”) is collectively referred to in this Agreement as the “Fund”.

**1.02**    The name of the Fund shall be known as the “**Shelburne Community Fund**”.

- 1.03** The Fund shall be held in trust by the Foundation as a perpetual endowment fund in accordance with the terms of this Agreement. For purposes of the *Income Tax Act* (Canada), as amended from time to time (the "*Income Tax Act*"), the gift of Original Capital and any gifts of Additional Capital shall be held on the same terms and conditions as set out in this Agreement.
- 1.04** This Agreement amends and supersedes any previous agreement, correspondence or verbal understanding concerning the Fund.

## **SECTION II**

### **ADDITIONAL CONTRIBUTIONS OF CAPITAL**

- 2.01** The Donor and any other persons may contribute Additional Capital to the Fund at any time or times upon acceptance of such Additional Capital by the Foundation. Donations of Additional Capital to the Fund will be recognized in accordance with the Foundation's donor recognition policy in place from time to time.
- 2.02** Any Additional Capital shall be held in trust in perpetuity as a part of the capital of the Fund in accordance with the terms of this Agreement. No further restrictions or terms may be imposed upon such contributions of Additional Capital.

## **SECTION III**

### **CHARITABLE PURPOSE OF THE FUND**

- 3.01** Subject to Section 3.02 below, the Disbursement Income, as defined in Section 6.01 below, earned from the Fund shall be used by the Foundation to provide one or more grants to qualified donors in accordance with the ITA for the specific charitable purpose of supporting projects that will enhance the quality of life for the residents of the Town of Shelburne ("Town of Shelburne"), subject to the following requirements as determined in the Foundation's sole discretion subject to advice from the Donor in accordance with Section 4.03:
- (a) the benefit of any approved project(s) must accrue, as much as possible, to the entire Town of Shelburne community at large and not to an individual(s), designated or otherwise;
  - (b) any approved project(s) shall take place primarily within the Town of Shelburne; and

- (c) the Disbursement Income of the Fund shall not be used to support the ongoing operations or services normally provided by the Town of Shelburne;

(Collectively the “Purpose”).

- 3.02** In utilizing the Disbursement Income to further the Purpose of the Fund, the distribution shall be done on a broad and widely dispersed basis where there is a need as determined in the sole discretion of the board of directors of the Foundation. The Foundation shall consider the advice of the Donor from time to time in relation to the utilization of the Disbursement Income of the Fund in accordance with Section 4.03.

## **SECTION IV**

### **DONOR ADVICE**

- 4.01** The Donor, through its authorized representative as described in section 4.03 below, may act as an advisor to the board of directors of the Foundation in connection with the management and disbursement of the Fund in accordance with its Purpose.
- 4.02** The Donor acknowledges that the role of the Donor is advisory only and that the advice provided by the Donor is not binding on the board of directors of the Foundation. Consistent with its fiduciary obligations, the board of directors of the Foundation shall retain the sole discretion with respect to all decisions pertaining to the management, investment and disbursement of the Fund in accordance with its Purpose. In particular, the Foundation shall independently consider and investigate whether the Donor’s advice with respect to the management and disbursement of the Fund is consistent with the Purpose of the Fund as determined by the board of directors of the Foundation in its sole discretion.
- 4.03** For the purpose of carrying out its role to provide advice to the Foundation to the management and disbursement of the Fund in accordance with its Purpose and this Section IV, the Donor may establish a management committee in relation to the Fund (“Fund Management Committee” or “Committee”) and appoint, from time to time in its sole discretion, individuals who are entitled to be electors in the Town of Shelburne as volunteer members of the Committee. The Donor shall establish such other terms of reference for the Committee as it determines appropriate in its sole discretion.
- 4.04** Prior to the Foundation’s final selection and approval of grants to be given from the Fund’s Disbursement Income (as defined in section 6.01 below) to further its Purpose, the Fund’s Management Committee shall have the opportunity to review all applications for grant funding from the Fund in the applicable fiscal year which have been received by the Foundation and make recommendations to the Foundation’s grant review committee for review, with

final approval of all grants from the Fund to be made by the Foundation's board of directors.

- 4.05** Should the town choose not to create a Fund Management Committee, or in the absence of Donor Advice from such a committee, the Dufferin Community Foundation shall disburse grants from the Shelburne Community Fund in accordance with the Foundation's charitable purposes, and subject to Section 3 of this agreement.
- 4.06** Subject to the approval of the Foundation in its sole discretion, the Fund Management Committee shall be permitted to design and once approved, publish appropriate materials to promote the Fund within the Town of Shelburne. All such materials shall clearly indicate that the Fund is to be held and managed as the charitable property of the Foundation. The design and publishing costs associated with the said materials shall be subject to the approval of the Foundation, who shall be responsible to pay the said costs.

## **SECTION V**

### **INVESTMENT POLICY**

- 5.01** The Foundation shall be responsible for the investment and management of the Fund. The Foundation shall invest the Fund pursuant to the investment policy, or such alternative name that it may be known by from time to time, of the Foundation that is in place from time to time in accordance with the then applicable investment power of the Foundation, including but not limited to the delegation of investment decision making to professional investment fund managers and investments in mutual funds and/or pooled investment funds.
- 5.02** In the course of investing the Fund, the Foundation shall be entitled to co-mingle the Fund with other restricted funds in place within the Foundation or held by the Foundation from time to time in a common trust fund, provided that the investment requirements set out in Section 5.01 above are complied with and that any Net Income earned thereon as defined below is recorded as a separate restricted fund of the Foundation for accounting purposes in accordance with the requirements of applicable regulations under the *Charities Accounting Act* (Ontario), as amended from time to time.

## SECTION VI

### **DISBURSEMENT POLICY**

- 6.01** The net income from the Fund shall be calculated in accordance with the disbursement policy of the Foundation that is in place from time to time (“Disbursement Policy”) by including interest income, dividend income, and any realized and unrealized capital gains net of any applicable capital losses, less costs, fees and expenses associated with the Fund as provided for below, including such reasonable administrative fees charged by the Foundation from time to time in accordance with Section 7.01 (collectively referred to as the “Net Income”).
- 6.02** The portion of the Net Income available for disbursement pursuant to this Agreement (i.e., the “Disbursement Income”) shall be determined each year in accordance with the Disbursement Policy of the Foundation then in effect, but shall be no less than the annual disbursement requirements imposed on the Foundation pursuant to the provisions of the *Income Tax Act* from time to time (the “Disbursement Quota”).
- 6.03** Any excess of Net Income over Disbursement Income shall be added to the Original Capital and Additional Capital of the Fund and dealt with as a part thereof (the “Capitalized Income”), provided that the Foundation shall be entitled to disburse such Capitalized Income at a subsequent time in accordance with the Disbursement Policy then in effect.
- 6.04** To the extent that there is insufficient Net Income earned from the Fund in any year to meet the Disbursement Quota or in the event of other extraordinary circumstances, then notwithstanding anything else in this Agreement to the contrary, the Foundation shall be authorized to expend such portion of the Capitalized Income, Additional Capital or Original Capital determined to be necessary in accordance with the Disbursement Policy of the Foundation then in effect in order to meet the Disbursement Quota in any given year or in order to respond to the extraordinary circumstances as determined in the sole discretion of the board of directors of the Foundation, subject to such advice as may be provided by the Donor and their authorized representatives from time to time as set out in Sections 4.01 to 4.03.
- 6.05** The Disbursement Income shall be disbursed by the Foundation in its sole discretion in accordance with the Purpose of the Fund as set out in this Agreement, subject to such advice as may be provided by the Donor and their authorized representatives from time to time as set out in Section IV, and subject to the requirement that no Disbursement Income shall be disbursed until the Fund holds a minimum of twenty thousand Canadian dollars (Cdn. \$20,000.00) in Original Capital and Additional Capital for at least one (1) full calendar year.



- 6.06** In a year in which there is a general municipal election, no grants shall be announced or disbursed within 90 days of the election.
- 6.07** Any grants made by the Foundation from the Disbursement Income shall be publicly identified by the Foundation as being disbursed from the Fund.

## **SECTION VII**

### **ADMINISTRATIVE FEE**

- 7.01** In consideration for the administrative services rendered by the Foundation in relation to the Fund, the Foundation shall be entitled to receive an administrative fee on an annual basis which shall be an amount to be determined in the sole discretion of the board of directors of the Foundation but in any case shall not exceed two percent (2%) of the fair market value of the total amount of the Original Capital, the Additional Capital and the Capitalized Income of the Fund as calculated on January 1<sup>st</sup> of each calendar year.

## **SECTION VIII**

### **CHANGE OF TRUSTEE FOR THE FUND**

- 8.01** With the consent of the Donor, by a resolution of the Town of Shelburne Council then in office, the Foundation may, in its sole discretion and by resolution of its board of directors, at any time and from time to time, transfer the Fund and appoint as a new trustee of the Fund any of the following:
- a) a successor corporation to the Foundation and appoint it as the new trustee of the Fund;
  - b) the Town of Shelburne provided that it is then a qualified donor under the *Income Tax Act*;
  - c) another charity that is a registered charity under the *Income Tax Act* provided that it has charitable purposes that are similar to the Foundation.

Such transfer and change of trustee shall be completed by means of a deed of trust, provided that all of the terms of this Agreement remain in effect ("Deed of Trust").

- 8.02** Upon signing a Deed of Trust, the newly appointed trustee shall be deemed to be the Foundation under this Agreement and be bound by all of its terms.

## **SECTION IX**

### **AMENDMENT TO THE AGREEMENT**

- 9.01** Any administrative term in this Agreement may be amended by written agreement of the Foundation and the Donor, provided that the Fund shall continue to be held in trust by the Foundation in perpetuity for the benefit of the Foundation or its successors or assigns in accordance with the Purpose of the Fund as set out in the terms of this Agreement.

## **SECTION X**

### **INDEPENDENT ADVICE AND RELEASE**

- 10.01** The Donor acknowledges having been advised by the Foundation to obtain such professional advice as may be necessary concerning the terms of this Agreement, including but not limited to legal and tax advice. In this regard, the Donor confirm that it is not relying upon the Foundation to provide any professional advice and that the Donor therefore release the Foundation, its directors, officers and employees from any legal responsibility or liability concerning professional advice that is or is not obtained.

## **SECTION XI**

### **FUND CORRESPONDENCE**

- 11.01** The correspondence representative for the Fund is the Chief Administrative Officer (or another staff member designated by the Chief Administrative Officer from time to time, if desired) of the Town of Shelburne in place from time to time ("Correspondence Representatives"). The Donor may name, change or add a Correspondence Representative in writing from time to time.

## **SECTION XII**

### **GENERAL TERMS**

- 12.01** This Agreement shall ensure to the benefit of and shall be binding on and enforceable by the parties and their respective successors, legal representatives, heirs and permitted assigns, as applicable and any subsequent trustee appointed hereunder. Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other party.

- 12.02** The parties hereto agree that they will, from time to time at the reasonable request of either of them, execute and deliver such instruments, conveyances and assignment and take further action as may be required pursuant to the terms hereof to accomplish the intent of this Agreement.
- 12.03** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and each of the parties hereto agrees irrevocably to conform to the non-exclusive jurisdiction of the Courts of such Province.
- 12.04** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. The execution of this Agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations or writings whatever not incorporated herein and made a part hereof and may not be amended or modified in any respect except by written instrument signed by the parties hereto in accordance with Section 9.01.
- 12.05** If any article, section or any portion of any section of this Agreement is determined to be unenforceable or invalid for any reason whatsoever, that unenforceability or invalidity shall not affect the enforceability or validity of the remaining portions of this Agreement and such unenforceable or invalid article, section or portion thereof shall be severed from the remainder of this Agreement.
- 12.06** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are signatory to the original or the same counterpart.
- 12.07** The parties hereto agree that this Agreement may be transmitted by facsimile or such similar device and that the reproduction of signatures by facsimile or such similar device will be treated as binding as if originals and each party hereto undertakes to provide each and every other party hereto with a copy of the Agreement bearing the original signature forthwith and upon demand.

Signed by the Donor this 28 day of  
February, 2022

**THE CORPORATION OF THE  
TOWN OF SHELBURNE**

Per:

\_\_\_\_\_  
Name: Wade Mills  
Title: Mayor

Per:

\_\_\_\_\_  
Name: Jennifer Willoughby  
Title: Clerk

We have authority to bind the corporation.

Signed by the Foundation this \_\_\_\_\_ day of  
\_\_\_\_\_, 202\_

**DUFFERIN COMMUNITY FOUNDATION**

Per:

\_\_\_\_\_  
Name:  
Title:

Per:

\_\_\_\_\_  
Name:  
Title:

We have authority to bind the corporation.

-

**THE CORPORATION OF THE TOWN OF SHELBURNE**

**BY-LAW NUMBER # 08-2022**

**BEING A BY-LAW TO AUTHORIZE THE TOWN OF SHELBURNE  
TO ENTER INTO THE SHELBURNE COMMUNITY FUND AGREEMENT  
WITH THE DUFFERIN COMMUNITY FOUNDATION**

**WHEREAS** pursuant to the provisions of the Municipal Act, 2001, S.O. 2001 as amended s. 11 (2) gives the municipality authorization to enact this by-law;

**AND WHEREAS** it is the intent of the Council to authorize an agreement from the signing of this by-law;

**NOW THEREFORE** the Municipal Council of The Corporation of the Town of Shelburne hereby enacts as follows:

- 1. That the Corporation of the Town of Shelburne shall enter into an agreement, substantially in the form attached hereto, and initialled by the Clerk for identification;
- 2. That the Mayor or his designate and Clerk are hereby authorized to execute the agreement and all documents in connection with the matters authorized by this by-law.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND ENACTED THIS 28 DAY  
OF FEBRUARY, 2022.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk