



# YOUR LEGACY THEIR LIVES

CARE FOR GENERATIONS  
by considering  
A GIFT BY WILL TO FAIRHAVEN

## ABOUT THE FAIRHAVEN FOUNDATION

### Mission

The Fairhaven Foundation inspires, engages, and stewards the support of its community to enhance the quality of life for its residents.

### History

The Fairhaven Foundation, a registered charity, began its work in 1997 when a group of volunteers began working to increase the quality of life for Fairhaven's residents. Over the years, the Fairhaven Foundation has been able to provide numerous items to Fairhaven. Below are some examples of what the Foundation has been pleased to provide:

- Electric beds
- Lifts for resident care
- Ultrasound machines
- Water features for both of the outdoor garden areas

The Foundation continues to dedicate all of its resources to enhancing and supporting quality living for all people at Fairhaven.

If you have a personal interest in enhancing the lives of Fairhaven residents, a planned bequest in your Will is something you may want to think about.

You can consult directly with us to have a custom clause prepared for you or have your lawyer call to discuss your plans.

***If leaving Fairhaven Foundation a bequest in your Will is not an option, we invite you to consider naming the Fairhaven Foundation as your charity of choice in your obituary.***

## HOW TO MAKE A BEQUEST

Whether you are considering a major revision of your current Will, or you are about to have a Will drafted for the first time, making a bequest to Fairhaven Foundation is easy to do.

The easiest, least expensive way to make a small change in your existing will is to add a codicil, which retain all the provisions of your will, except those modified by this addition. If you have a will and are considering a bequest to Fairhaven Foundation, the addition of a codicil should be discussed with your lawyer.

The accompanying guide, “Gifts by Will and Will Clauses,” contains suggested wording that will assist you in discussions with your lawyer.

## RESTRICTED OR UNRESTRICTED

A legacy gift/bequest to Fairhaven falls into two basic categories:

- **Unrestricted** gives full discretion to Fairhaven Foundation.
- **Restricted** for a purpose designated by you. In making a bequest to Fairhaven Foundation, it is common to specify the purpose for your gift. You may prefer to see your legacy support a specific program that will enrich the lives of our residents.

Because Fairhaven’s needs may change throughout the years, we strongly recommend that you include authorization in your Will enabling Fairhaven Foundation to make changes in use of all restricted legacy gifts. Fairhaven Foundation will only make changes in keeping as close as possible with the spirit and general intent of the

gift. It is important to us to honour your intentions.

## THE MOST COMMON TYPES OF BEQUESTS

- **Specific bequest** by which Fairhaven Foundation receives a specific dollar amount or stated fraction of your estate or a specified gift in kind (collections, art, books, jewellery etc.).
- **Residual bequest** by which Fairhaven Foundation receives a percentage of the remainder of your estate after other specific legacies have been fulfilled (see Section I, item 10 below).
- **Contingent bequest** by which Fairhaven Foundation would receive a stated share of your estate, but only in the event of the prior death of other named beneficiaries.
- **Trust remainder bequest** by which named beneficiaries receive income from a trust established in the Will. Upon the death of the surviving beneficiaries or at the end of a specified term, all or part of the remaining principal will pass to Fairhaven Foundation.
- **Tax eliminator bequest** by which your estate trustee would calculate the final income taxes owed on your terminal return and make an equivalent charitable gift that will eliminate final taxes.

## A GUIDE TO GIFTS BY WILL & WILL CLAUSES

The following information has been prepared for the use of legal and other financial professionals when acting for donors who wish to make legacy gifts by Will to Fairhaven Foundation. The suggested clauses are examples only and can be amended to suit particular applications. We can write custom clauses for your individual needs.

**Section I provides sample words for various Will bequests.** Samples are provided for gifts restricted as to capital or income use and a sample wording is also provided for unrestricted bequests.

**Section II provides a “power to vary purposes” clause.** Fairhaven Foundation recommends that this clause be inserted when a bequest is made containing a restricted use clause. This will give the Committee of Management the flexibility needed to adjust to changing circumstances.

**Section III is provided to offer alternative ways to plan a gift for Fairhaven.** We would be pleased to discuss these alternatives with you.

### SECTION I: BEQUESTS

#### 1. Capital Bequest, Unrestricted Use

“I give, devise and bequeath to Fairhaven Foundation the sum of \$—, (or % share of my estate) for the use and purposes of the Organization as its Committee of Management may determine”.

#### 2. Capital Bequest, Restricted Use

“I give, devise and bequeath to Fairhaven Foundation the sum of \$—,

(or % share of my estate) to be used for —.

#### 3. Income, Restricted Use

“I give, devise and bequeath to Fairhaven the sum of \$—, (or % share of my estate) to be held in an endowment fund, and kept invested, with the income from it to be used by — (the specific program area) as it may determine for [the establishment and maintenance of building facilities, implementation of new programs]”.

#### 4. Named Fund, Restricted Use

A designated gift as in point 3 above endows the capital and uses only the annual earned income to fund specific awards or programs and will create a permanent memorial. The above clause can be extended even further to include: “... the endowment fund shall be known as —”; or, “... I would like to have the name of — (or my name) associated with this gift”; or, “... I am making this gift in memory of —”. A minimum of \$20,000 is required to establish a named endowment.

#### 5. Residual Bequest, Unrestricted Use

“I give, devise and bequeath to Fairhaven Foundation the whole of (or % share of) the residue of my estate to be used at the discretion of the Organization”.

#### 6. Contingent Bequest, Unrestricted Use

“If any of the beneficiaries named in this Will should die before becoming entitled to receive their distributive share of my estate, I direct my trustee to pay or transfer the share to which such beneficiary would otherwise be entitled, to Fairhaven Foundation for the use and purposes of the Organization as its

Committee of Management may determine”.

### **7. Eliminate Final Taxes**

“My Trustees shall determine the income tax payable by my estate at my death (my “Final T1 Tax”) and shall determine the income tax payable or paid in the year immediately preceding my death (“My Preceding Year Tax”) and shall pay a legacy Fairhaven which will be equal to the lesser of:

- a) such amount which will reduce my Final T1 Tax and My Preceding Year Tax to nil or as close to nil as possible; and
- b) not more than \$— (maximum dollar amount you intend to give) Provided that in any event, I would like to make a minimum gift of \$—to Fairhaven Foundation.”

### **8. Reversionary**

“In case any bequest or residuary gift contained in this Will to any charitable organization or institution, or to any person or persons in trust for such organization or institution, cannot take effect in whole or in part because of any legal prohibition or because of the inability of any such organization or institution to take for any reason whatsoever, I direct my estate trustee to pay or transfer the whole of the bequest or residuary gift or the portion thereof affected by such prohibition or inability to take, to Fairhaven Foundation for the use and purposes of the Organization as its Committee of Management may determine”.

### **9. Bequest of Specific Property: Art, Collectables, Jewellery etc.**

“I give, devise and bequeath to Fairhaven Foundation my —, [specify title, artist’s name, description] to be used by the Organization. I am making this gift in memory of —; or, I would like

to have [the] name of [or my name] — associated with this gift”.

### **10. Permission to Dispose of Property and Add Proceeds to Acquisition Fund**

“If my bequest is deemed to be not appropriate for Fairhaven Foundation, I authorize my executor to sell at auction or have disposed of in like manner, and the money realized, gifted for the acquisition of [new works of art]”.

#### **NOTE**

- i. The Organization reserves the right to accept or decline any gift, bequest, or other donation-in-kind. Gifts or bequests should be of a clear and unrestricted nature, and no work can be accepted with an attribution or circumstances of exhibition guaranteed in perpetuity.
- (ii) Other gifts of property such as real estate and gifts-in-kind may be accepted provided that an appropriate use exists for the article. Real estate would quite likely be sold and the net proceeds of the sale used for purposes as specified in the Will.

### **11. Extra Advantage of Gifting Securities in Kind**

There is an extra advantage to using appreciated securities for charitable donations in your Will but you have to do it the right way. Whether during life or by a gift from your estate, appreciated securities should always be donated by **transferring ownership of the shares** to be eligible for exemption from capital gains taxation. The donation receipt is for a gift-in-kind and generates a tax credit that can be used to offset taxes payable on other income. The extra tax credit will likely benefit all of your heirs, including the charitable heirs.

A **specific bequest** of assets and property can be made in your Will but it may not be the best way to make a gift

of securities. A **residual bequest** may be the most effective way to fulfil charitable bequests with appreciated securities and to be fair to all other beneficiaries.

## 12. Canadians with US Assets

If you are a Canadian and own assets in the US, the distribution of those assets will likely be subject to US Estate taxation.

American residents and taxpayers are permitted to donate by Will their taxable US assets (stocks, real estate etc.) to a Canadian charity, but unlike in Canada the testator must specify the charitable gift of those assets in the Will to ensure they qualify for the US Estate Tax Charitable Deduction. The estate executor, in Canada, does not have the authority to make that decision on your behalf.

People with US investments will be subject to US estate taxation and need specialized advice from a qualified attorney. Please call to discuss if you think this may affect you. Certain Estate Tax exemptions only apply to US citizens.

## SECTION II: POWER TO VARY PURPOSES CLAUSE

Over time, the needs of Fairhaven Foundation will change due to both revisions of program offerings and external considerations.

For that reason, we urge you to insert the following clause into your Will: "In the event that circumstances make the specified use of this gift no longer practical or desirable, the Committee of Management of Fairhaven Foundation are hereby authorized to make changes

in its use in keeping as far as possible with the spirit and general intent of the gift

## SECTION III: OTHER LEGACY GIFT STRATEGIES

### 1. "Peace of Mind" Gift Annuity

This plan allows you to give a substantial donation to Fairhaven Foundation while also receiving tax favourable income for life or for a set number of years.

#### Benefits

- Payments are made monthly
- Depending on your age, all or a portion of the income could be tax-free
- Immediate tax receipt for a portion of your gift
- The gift capital can be designated according to your wishes
- Your gift passes to the Organization outside of the estate process

### 2. Endowment Fund

Fairhaven Foundation offers you the ability to participate in the Fairhaven Foundation endowment fund by creating your named fund (\$20,000 minimum) that endows those areas or programs in which you have an enduring interest.

#### Benefits

- Allows gifting over time with current tax savings
- Permits the creation of a lasting memorial as endowments are established in perpetuity
- Extremely flexible. The endowed plan can begin immediately or after a predetermined time or upon the death of the donor

### 3. A Gift of Life Insurance

A charitable gift of Life Insurance can be a beneficial alternative because it offers you the chance to give manageable amounts over time that eventually become a significant contribution. Life insurance gifts are normally best suited to younger people but are worth investigating as an option.

#### Benefits

- A significant gift from disposable income at a fraction of the ultimate value.
- Tax saving can be immediately realized.
- Your donation could reduce final taxes of your estate.
- Insurance gifts pass outside the estate.

### 4. A Gift of Property

You may wish to transfer ownership of your property (real estate, works of art, etc.) and receive a receipt for tax purposes. In addition, gifts of residual interest may be considered in which you may retain the use of the property during your lifetime.

#### Benefits

- Immediate tax savings.
- Continued use of your property for life.
- Satisfaction of knowing Fairhaven Foundation will have the benefit of your gift in the future.
- Your gift passes to the Organization outside of the estate process.

### 5. Trust Arrangement

You may realize a significant benefit by transferring property to a trust that will eventually be a charitable gift to Fairhaven Foundation. If you are considering a trust arrangement such as a Charitable Remainder Trust, we

strongly recommend that you carefully review the implications with your financial advisor.

#### Benefits

- Gift is made during your lifetime or created through your Will.
- Tax savings are realized with a charitable gift receipt.
- May permit gifting over time.
- Your gift is protected from challenge by other potential beneficiaries.
- Could result in favourable tax treatment of certain capital gains properties

#### **DISCLAIMER**

*Everyone who is considering a gift in their Will should seek independent legal and financial advice. Your Will is your most important financial plan. Please don't leave it to chance. When properly written by a qualified professional it will give you peace of mind and provide your trustee/executor with the guidance needed to carry out your wishes. The material in this document is provided as a service to Fairhaven Foundation but is not intended as legal advice.*

*For more information contact Jaimie Bondy-Donohue, Development Officer at: 705-743-0881 ext. 214 or [jbondy@fairhavenltd.com](mailto:jbondy@fairhavenltd.com).*