

GUIDELINES USED BY THE COMMITTEE ON CONSTITUTIONS

As Revised, March, 2009

The Committee on Constitutions of the Pacific Southwest District of the Lutheran Church – Missouri Synod operates under the provisions of paragraph 8.1 of the District Bylaws:

8.1 COMMITTEE ON CONSTITUTIONS

- 8.11 The District shall elect a Committee on Constitutions composed of two pastors and one layman.
- 8.12 All new and revised constitutions of the congregations and auxiliary organizations of the District are to be reviewed by this Committee, in accordance with Synodical Bylaws.
- 8.13 The Committee on Constitutions shall assure the District Board of Directors that constitutions and bylaws are in accordance with the Church's doctrine and with the Synodical Constitution and Bylaws.
- 8.14 If at any time there is a disagreement between the Committee and the congregation or organization on any scriptural doctrine or Synodical policy which cannot be resolved by the District President or Board of Directors, such issues shall be resolved by the District Convention.
- 8.15 The Committee will also suggest such improvements in congregations' and organizations' constitutions and bylaws as will better serve the administration of their affairs.

The following guidelines have been developed during the many years of the Committee's review of constitutions and bylaws of the District's congregations. In addition to the Holy Scripture, the rulings of previous Committees, Synodical Conventions, and the Synod's Commission on Constitutional Matters; the writings of the Church Fathers; common church practice; and legal decisions have all played a part in the development of these guidelines.

The Committee cannot take responsibility for the accuracy, completeness or even the workability of the individual constitutions and bylaws. It will make suggestions but the congregations have responsibility for such matters.

Each member of the Committee is furnished with a separate copy of the document for personal review. The Committee meets as a body and will convey to the congregation or organization the consensus of its study and discussion. Suggestions are not meant to be dictatorial but are made in the spirit of Christian love, not in the spirit of control. In this spirit we remind you that congregations' bylaws, as well as constitutions, are subject to review by this Committee.

In the Guidelines, the abbreviation "SG" refers to paragraphs in the synodical "GUIDELINES for the Constitution and Bylaws of a Lutheran Congregation," May, 2006. The indented paragraphs are recommended wording for inclusion in constitutions and bylaws.

NOTE: Any changes made to a congregations constitution or bylaws are to be submitted to the Constitution Committee for review and recommendation to the District Board of Directors *before they are placed in use* in order for a congregation to remain a member of Synod in good standing. In the event of a disagreement, legal or otherwise, the current copy of the documents on file in the District Office is considered the official copy in force.

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G1 Synod's Name

The name of the church is "The Lutheran Church – Missouri Synod."

G2 Joining Synod

Procedures for joining the Synod and procedures for the approval of new and revised or amended constitutions and bylaws are in paragraphs 2.21 and 2.41 of the Synodical Bylaws in the 2004 Synodical Handbook.

G3 Relation of the Synod and Its Members

The relationship of Synod to its members is described by Article VII of the Synodical Constitution as found in the Synodical Handbook. All new and revised constitutions that refer to this relationship ought to quote this article. It is not mandatory that this article be quoted, but whether quoted or not, congregations accept this article when they join the Synod.

In its relation to its members the Synod is not an ecclesiastical government exercising legislative or coercive powers, and with respect to the individual congregation's right of self-government it is but an advisory body. Accordingly, no resolution of the Synod imposing anything upon the individual congregations is of binding force if it is not in accordance with the Word of God or if it appears to be inexpedient as far as the condition of the congregation is concerned.

The congregation shall hold membership in the Lutheran Church – Missouri Synod and shall commit itself to the confessional doctrines, practices and discipline of the Synod and the Pacific Southwest District in accordance with the Synodical and District Bylaws District, as directed in paragraph 1.7.2 of the Synodical Bylaws as found the 2004 Synodical Handbook: "The Synod expects every member congregation to respect its resolutions and to consider them of binding force if they are in accordance with the Word of God and if they are applicable as far as the condition of the congregation is concerned. The Synod, being an advisory body, recognizes the right of the congregation to be the judge of the applicability of the resolution to its local condition. However, in exercising such judgment, a congregation must not act arbitrarily, but in accordance with the principles of Christian love and charity."

G4 Articles of Incorporation

Fundamental to the American system is the two-fold aspect of all local religious bodies, namely, that all have their spiritual and temporal side, the one answerable to the denomination and the other to the civil authority. The religious or church corporation arose from the necessity of having some body capable of entering into civil contracts and of acquiring, managing and disposing of real property, power denied both church and unincorporated societies. Incorporation is now quite generally effected under general incorporation acts passed by the legislatures of the various states. Articles should set forth in clear unequivocal terms the corporate name, the denomination with which the society is affiliated, the purpose and domicile or principal place of business, and the names of the trustees forming the corporation. When forming a corporation, consultation with an attorney is advisable.

G5 Constitution and Bylaws

The constitution and bylaws of a society contain its own basic rules relating principally to itself as an organization. The Missouri Synod congregations follow the practice of having a constitution separate from the bylaws in order that the more essential articles in the constitution may be made more difficult to amend. Usually the constitution is made amendable by a two-thirds vote with previous notice, and the bylaws are made amendable by a majority vote—usually with previous notice. If not otherwise specified, the constitution and bylaws are both amendable by the same vote—a two-thirds vote with previous notice. However, this defeats the purpose of having a separate constitution so that its more essential articles may be made more difficult to amend.

G6 Synodical Constitution and Bylaws

The Synod's constitution and bylaws are published in the Synodical Handbooks.

G7 Synodical Handbook

The Synodical Handbook is republished after each triennial Synodical Convention. Copies are mailed to all members of Synod, especially pastors and congregations, and additional copies may be obtained from Synodical Headquarters.

G8 District Bylaws

The constitution of Synod is the constitution of every district so that districts have no constitutions of their own. Districts have their own bylaws.

G9 Guidelines

The Synod's guidelines for constitutions and bylaws are "GUIDELINES for the Constitution and Bylaws of a Lutheran Congregation," May, 2006. Our abbreviation is "SG".

The District's guidelines for constitutions and bylaws are "Guidelines Used by the Committee on Constitutions." Copies may be obtained from the Committee. Our abbreviation is "G".

G10 Approval of Congregational Constitutions and Bylaws (SG 12.3, 19.2)

Congregational constitutions and bylaws and their revisions and amendments are approved by the District Board of Directors upon recommendation by the Committee on Constitutions in accordance with the Synodical Handbook, Bylaw 2.4.1. Changes required by the Committee must be made before the Committee will recommend approval to the Board of Directors. An appeal from ruling by the Committee may be made to the District President, the Board of Directors and the District Convention, in that order.

G11 Parliamentary Authority (SG 18)

It is suggested that a parliamentary authority be specified as follows:

The rules contained in the current edition of Robert's Rules of Order, Newly Revised shall govern the Congregation in all cases to which they are applicable and in which they are not inconsistent

with this Constitution and Bylaws and any special rules of order the Congregation may adopt.

See Appendix A for common misuses of Robert's Rules.

G12 ***Quorum*** (SG 8.3)

The Synodical Guidelines recommend "All voting members present at a properly called meeting shall constitute a quorum. We disagree with this position as it allows that a very few or even a single member may make significant decisions. " *NOTE: If a quorum is not specified, State law or Robert's Rules will establish it.*

Some congregations prefer to specify a percentage of their voting members or a specific number of voting members. Care ought to be taken not to set the quorum too high in an effort to ensure maximum participation. As a suggestion, a quorum might be set at the number of members that may be expected to attend in clement weather.

The quorum for boards and committees ought to be set no higher than a majority of elected or appointed members unless there are compelling reasons to do so. A quorum of two-thirds often is not achieved at individual meetings.

G13 ***Church Organization*** (SG 9, 14)

Congregations whose Voters Assembly meets at least quarterly, ought to establish a Church Council to coordinate the activities of the Boards and Committees. The Church Council has no executive power; it makes recommendations to the Voters Assembly.

Congregations whose Voters Assembly meets less than quarterly, ought to establish a Board of Directors with executive power to administer the affairs of the congregation between meetings of the Voters Assembly. The constitution and bylaws ought to retain certain specified functions for the Voters Assembly - and may delegate certain specified authority to the Board of Directors or to another board or Committee - and ought to state that in addition to those specified functions that the Voters Assembly retains, the Voters Assembly has the authority to enact resolutions and to rescind or amend resolutions enacted by any body within the congregation except where the constitution and bylaws specifically delegate authority for such action. A sub-group of the Board of Directors, an Executive Committee, may be formed to advise the Board of Directors, but this Committee's existence and function must be specified in the bylaws.

The Committee on Constitutions has available model church-council-type and board-of-directors-type constitutions and bylaws.

G14 ***Irrevocable Dedication Clause***

Since 1970, the State of California has required that congregations include in their Articles of Incorporation an irrevocable dedication clause in order to retain their tax-exempt status. We have been informed that the Federal IRS also requires this same statement of policy in order to retain the tax exempt status for religious organizations. We, therefore, require that this clause be included also in the constitutions under an article on property or in another appropriate article as very few ever see the Articles of Incorporation.

The property of this congregation is irrevocably dedicated to

religious and charitable purposes and no part of net income or assets of this organization shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private individual.

G15 *Bonding*

At a minimum it, is recommended that the treasurer and financial secretary be bonded. This is not to question their trustworthiness; it is just good business practice. Synodical regulations require bonds for certain Synodical personnel. Anyone who cannot make bond because of a previous instance will not accept nomination to a position requiring bonding and thus avoid embarrassment. All people that have access to congregational funds should be bonded. Alternatively, many comprehensive church insurance policies include provisions for coverage of losses incurred as a result of mishandling of funds normally covered by a bond. If it doesn't, a policy rider should be investigated, or a bond required.

G16 *Books of Instruction* (SG, pg 15, footnote 2, 4.)

In their zeal to permit the use of only doctrinally pure materials, some congregations overlook the possibilities for comparative studies. Therefore, it is recommended that the word "normative" - the study of norms - be included when limiting the use of materials for religious study, that is, "only doctrinally pure materials may be used for normative religious study." For example, this would permit a Bible class to study critically and evaluate the book The Late Great Planet Earth — especially the section dealing with the return of Christ — in light of Holy Scripture. This book would not be used to establish norms but it would be used for critical study and review, a useful exercise in "testing the spirits whether they are of God." For normative purposes, of course, only that literature which is in conformity with the doctrinal articles of your constitution ought to be used.

G17 *Attending Church*

It is recommended that you add "if at all physically possible" after saying that a member should attend church services faithfully. Membership privileges ought not to be contingent upon physical presence in the case of people who are physically unable to attend.

G18 *Accepting New Members (Packing)*

It is recommended that the reception of new voting members be placed as the last item before adjournment on the order of business in order to prevent the "packing" of a meeting. "Packing" is the practice of loading a meeting with proponents or opponents of a resolution - who obtain voting status at that meeting solely for the purpose of voting on the controversial matter under discussion. This distorted vote may not be in the best interest of the congregation, and is probably not the consensus that a balanced meeting would provide.

G19A *Date of Constitution and Bylaws*

The legally effective date of constitutions and bylaws is the date of approval by the District Board of Directors. After you have adopted any changes required by the Committee on Constitutions — and any of the suggested changes that you may choose

to make - and have submitted your updated document to the Committee, you will be informed of this date upon approval by the Board of Directors. Please place this approval date upon your document.

G19B *Page Numbering*

All pages ought to be numbered for easier and more accurate reference, with

“Page __ of __”

to preclude loss of pages without knowledge of the fact.

G20 *Excommunication*

G20.1 In the final step only the Voters Assembly may excommunicate (SG 5.4.2).

Communicant members who conduct themselves in an unchristian manner shall be admonished according to Matthew 18:15-20. If they remain impenitent after proper admonition, they shall be excommunicated. Each case shall be presented individually to the Voters Assembly for a decision. In line with the Synodical Guidelines, a super-majority of two thirds of ballots cast (or more) should be required. If such members deliberately absent themselves from the meeting or meetings at which their case is discussed, they shall be regarded as having excluded themselves from the membership of the congregation.

G20.2 We suggest the following for reinstatement from excommunication:

When the circumstances that have led to excommunication or self-exclusion have been removed and the individual desires reinstatement, the Board of Elders shall recommend reinstatement to the Voters Assembly for its joyous action.

G20.3 "Self-excommunicated" ought to be "self-excluded." (SG 4.4.1).

G21 *Limitations on Holding Office* (SG 10)

The 2004 Convention of the Lutheran Church-Missouri Synod affirmed the conclusions of a 1994 report of the Synodical Commission on Theology and Church Relations, *The Service of Women in Congregational and Synodical Offices*, which concluded that men and women may serve in any congregational office so long as several conditions are met (Resolution 3-08).

It is the understanding of the Pacific Southwest District Committee on Constitutions that several factors should be considered as congregations write their constitutions and bylaws. Biblical and Synodical guidelines state that women shall not serve in offices that are directly involved in the specific functions of the pastoral office (e.g., preaching, the public administration of the sacraments, church discipline). Many congregations of the synod define the offices of president, vice president and elder in terms of servanthood rather than as offices of authority over or having duties of an ordained pastor. If this is your congregation's understanding of these offices, you may wish to include comments to the effect that men and women may serve as chairman (president), vice chairman (vice

president) and elder (or equivalent office) or simply omit exclusionary statements.

G22 *Trustees' Emergency Expenditures*

The Board is charged with maintaining the property; however it ought not to have carte blanche authority to make expenditures. A limiting statement is appropriate:

Emergency repairs costing no more than \$ _____ may be made without approval of the Voters Assembly.

G23 *Brief Statement*

Although it is to be honored, the Brief Statement cannot be listed with the Lutheran Confessions nor can subscription to the Brief Statement be required for congregational membership. The Synodical Guidelines for Constitutions and Bylaws state that a congregation “must not go beyond the Synod’s confessional standard” (SG 3.0). We strongly recommend using the following from the Synodical Guidelines (SG 3.1):

This congregation accepts without reservation:

- The Scriptures of the Old and New Testament as the written Word of God and the only rule and norm of faith and of practice;
- All the Symbolical Books of the Evangelical Lutheran Church as a true and unadulterated statement and exposition of the Word of God, to wit: the three Ecumenical Creeds (the Apostles’ Creed, the Nicene Creed, the Athanasian Creed), the Unaltered Augsburg Confession, the Apology of the Augsburg Confession, the Smalcald Articles, the Large Catechism of Luther, the Small Catechism of Luther and the Formula of Concord.

G24 *Assembly*

The preferred name of the gathering of your voting members is "Voters Assembly." The assembly is defined as the body of people who assemble, and the meeting is defined as the event of their being assembled to transact business.

G25 *Voting*

G25.1 "Simple majority vote" is redundant. Use "majority vote" — more than half of the votes cast — which is complete and unambiguous.

G25.2 "Two-thirds majority vote" is written correctly as "two-thirds vote." The word "majority" is used only to describe a majority vote, which is more than half of the votes cast.

G25.3 Use “Of the votes cast.” "Of the members present" is ambiguous, since it might be interpreted to mean that the number of votes required to adopt a resolution is based upon the number of members present instead of upon the number who vote. Absent members are never allowed to vote.

G25.4 The President may vote - or he may refrain from voting - in any instance in which his vote would affect the result: he may vote to break a tie and thus pass a resolution, or he may refrain from voting and let it fail; he may vote to create a tie and defeat a resolution, or he may refrain from voting and let it pass (see Robert's Rules of Order, Newly Revised, 1990 Edition, pages 401 and 402).

G25.5 Only duly elected representatives ought to have the vote on the Board of Directors or the Church Council, not their appointed representatives.

G25.6 Add "18 years old or older" after "communicant member." State law requires that those voting on corporate matters shall be at least 18 years old. Communicant might be as young as 13 or 14.

G25.7 "Ex-officio" means "by virtue of office" and an ex-officio member may or may not be a voting member. An advisory member is a non-voting member.

G26 *Liability*

Whenever the Trustees act in the name of the congregation, the congregation is liable. The congregation as a corporation is always liable!

G27 *Amendment of Bylaws* (SG 19)

The following statement is recommended for the amendment of bylaws:

The Voters Assembly may amend these bylaws by a majority vote provided that the proposed amendment has been included in the call of the meeting.

G28 *Nominations* (SG 15)

It is better to have only one nomination for each office, and avoid the situation in which the second-best person has to lose. The congregation may make additional nominations before the election or the Voters Assembly may nominate from the floor if it does not approve of the one nominee.

G29 *Synodical Dispute Resolution*

The SYNODICAL DISPUTE RESOLUTION process is not available to congregations. Recommended insertion:

Should a dispute arise in the congregation that cannot be resolved internally, which God may mercifully prevent, the dispute resolution resources of the Pacific Southwest District shall be utilized.

G30 *Relationship of called workers to the Congregation*

The Board of Elders shall watch over the doctrine and life of called personnel and provide administrative advice when requested by them. The Board shall also assure that the called workers are treated with due respect and that the congregation fulfills its duty toward them with respect to their physical needs in accord with the Word of God and their respective calls.

Appendix A: Common Misuses of Robert's Rules of Order

The making and seconding of a motion does not place the motion on the floor.

The chair places the motion on the floor by stating the question on the motion. The chair may rule the motion out of order and not state the question on the motion, in which case the motion dies unless a member appeals from the decision of the chair and the chair's ruling is not sustained by a majority vote.

Motions from boards or committees do not require a second.

Motions from boards or committees the members of which are also members of the assembly do not require a second since it is understood that at least two members support such a motion. Much time may be saved in a large assembly if a second is not requested and awaited when such motions are presented.

Lack of a second does not invalidate a motion.

The chair will normally await a second on motions from individual members before stating the question on the motion; however, if he states the question without a second and is not challenged before debate has begun; the lack of a second becomes immaterial and does not affect the validity of the motion's adoption.

A motion may not be withdrawn without the permission of the assembly after it has been stated by the chair.

After the chair has stated the motion, it becomes the property of the assembly and the maker must request the assembly's permission to withdraw or modify his own motion, which the assembly may grant by unanimous consent or by adopting a motion to grant permission to withdraw the motion. Before the chair has stated the motion it is the property of the mover, who may withdraw or modify it without the consent of anyone. The seconder does not have to agree, since the motion no longer has two supporters and the seconder is not identifiable since he will usually have seconded the motion from the floor without having been recognized.

A call for the question does not stop debate.

A call for the question merely indicates to the chairman that one member desires to stop debate and vote, but the chairman must recognize any other member who may request the floor. If no one claims the floor the chair shall call the question. A two-thirds vote is required to stop debate over the objections of one or more members. This is accomplished by the motion, "I move the previous question," or "I move the question," which must be seconded, is not debatable or amendable, and requires a two-thirds vote for adoption.

The motion to "Lay on the Table" may not be used to stop debate and kill a motion or to postpone a motion.

The purpose of the motion to "Lay on the Table" is to enable the assembly to lay the pending question aside temporarily when something of an immediate emergency nature has arisen. Consideration of the laid-aside motion may be resumed at the will of the majority by the motion to "Take from the Table." The motion to "Lay on the Table" is

not debatable and not amendable and requires only a majority vote; therefore, its use for purposes other than that stated above is unfair to the minority and individual members:

It is misused to stop debate and kill a motion. This violates the parliamentary principle that a two-thirds vote is required to stop debate. The chair ought to rule this motion out of order when proposed for this purpose. The proper motion to stop debate is to move the "Previous Question." The proper motion to avoid a vote on a issue is to "Postpone Indefinitely" or to "Object to the Consideration of the Question."

It is misused to postpone a question in the form "I move to table the motion until the next meeting". The only correct forms of the motion are "I move to lay the question on the table" or "I move that the resolution be laid on the table." A motion laid on the table requires a motion to "Take from the Table" for consideration to resume. The correct — and simpler — motion is the motion to "Postpone." When postponed to the next meeting, the motion appears on the agenda of that meeting under "Unfinished Business."

The common usage of the term "the matter is on the table" is not consistent with the motion to "Lay on the Table" which means to lay aside a matter by placing it in the secretary's care — laying the motion on the secretary's table - until it is "taken from the table" at a later time. A matter that is under consideration is "on the floor" that is on the floor of the assembly for discussion — the same "floor" that a member "has" when he has been recognized by the chair.