

A Model Constitution for a Congregation of The Lutheran Church – Missouri Synod

A revision of a workshop presentation by Russ Boraas at the SED's 2015 "Tending the Flame"

Now days, there is frequently heard plea for "**simple**" congregational Constitutions and By-Laws. Some people make the mistake of thinking "shorter" is the same as "simpler". Constitutions and By-Laws should be "adequate"; that is, they should explain in easy-to-read language, what a congregation believes and how it is going to function. It needs to comply with the requirements of the Lutheran Church – Missouri Synod and with the legal structure for religious groups within the state where it is located. And, it needs to provide a good organizational structure for governance of the congregation that will help carry out the congregation's mission, while preserving peace and harmony within the congregation. A "short" Constitution or "short" By-Laws, which fail to do these things, are not "simple"; they are just confusing and inadequate.

Constitutions are pretty much the same for large or small congregations; old and new congregations; English speaking or immigrant ethnic congregations. It is in the detail of the By-Laws that the real differences among the different types of congregations occur.

What follows is a "Model Constitution" for an LCMS congregation's Constitution, along with explanations of why many of the provisions are written as they are. Hopefully, both the Model Constitution and the explanations are "adequate" and fairly easy to understand, without being excessively long and overly detailed. This Model Constitution is both considerably simpler and shorter than the model Constitution found in the Synod's "Guidelines for Constitutions and Bylaws of Lutheran Congregations". It also contains an optional Article XII for ethnic congregations, who wish to use the language of their homeland for worship and teaching.

At the very end, I have placed all the provisions of the entire model constitution together in regular typeface, to make it easier for drafters of constitution to "cut and paste".

I have served on the "Constitution and By-Laws Task Force" of the Southeastern District for some years now and have seen scores of constitutions and by-laws submitted for review by the Task Force, prior to approval by the District's Board of Directors. Many of the provisions included in this Model Constitution are based both upon the Synod's "Guidelines for Constitutions and Bylaws of Lutheran Congregations", but this Model also reflects my experience on the Task Force and drafting documents for my own

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congregation. While the ideas here are in keeping with the advice the Task Force gives to congregations, any shortcomings and errors are all my own.

The order and naming of the articles shown generally follow the order and naming found in the “Guidelines for Constitutions and Bylaws of Lutheran Congregations” (referred to herein as the “LCMS Guidelines” or “Synod’s Guidelines”, but in interest of brevity, simplicity and avoiding duplication, I have moved some things, such as the Guidelines’ article on “Meetings”, from the Constitution to the By-laws.

To simplify the numbering system, I have used Roman numerals to number the various Articles and Arabic numerals to number the Sections within each Article. Lower case letters have been used for subsections. Any numbering system your congregation may want to use is fine, as long as you follow it consistently.

The provisions of the Model Constitution are shown below in *italics*. My comments are in normal typeface, just to help distinguish them from the text of the suggested provisions.

Here is a list of the constitutional articles found in the Model Constitution:

- Article I: Name of the Congregation
- Article II: Mission
- Article III: Confessional Standard
- Article IV: Synod Membership
- Article V: Membership in the Congregation
- Article VI: Governance of the Congregation
- Article VII: Called Church Workers
- Article VIII: By-Laws
- Article IX: Division of the Congregation
- Article X: Amendments
- Article XI: Miscellaneous
- Article XII: Language (*Optional for Ethnic Congregations*)

Article I: Name of the Congregation

The Synod’s Guidelines has the following sample paragraph regarding the name of the congregation:

*“The name of this congregation shall be [Name] Lutheran Church of [City,]
[County,] [State].”*

It is clear from the sample format that the location of the congregation is not intended to be part of the congregation’s name, but when the brackets are filled in and the sentence is written, it is not at all clear whether the location is or is not a part of the congregation’s

name. Using the name of my own congregation and using the Synod Guideline format, the provision would read as follows:

“The name of this congregation shall be Trinity Evangelical Lutheran Church of Henrico County, Virginia.”

Is or is not “Henrico County, Virginia” a part of the congregation’s name? It is not clear. Therefore, I suggest stating the location in a separate sentence.

This is also a good place to state whether or not the congregation is incorporated. If it is incorporated the following sample provision could be used.

Suggested Sample Provision

“The name of this Congregation shall be “Trinity Evangelical Lutheran Church”. It is located in Henrico County, Virginia. The Congregation is incorporated as a not-for-profit corporation under the laws of the Commonwealth of Virginia.”

If not incorporated, the following could be used:

Alternative Suggested Sample Provision

“The name of this Congregation is Trinity Evangelical Lutheran Church. It is located in Henrico County, Virginia. It is an unincorporated church under the laws of the Commonwealth of Virginia.”

Article II: Mission

I am providing no sample provision for the congregation’s mission. This is an opportunity for a congregation to really think about its mission to its own members, the community in which it dwells and to the whole Body of Christ on earth. The examples I have seen are as varied as the congregations, which wrote them. The only thing I would suggest is to try to make it an enduring mission statement and not just a collection of the most recent buzzwords of our day.

The Synod’s Guidelines provide this sample:

“The purpose of this congregation shall be to give honor and glory to the Triune God, to carry out His will, to proclaim the Gospel of Jesus Christ to all the world, to nurture the faith of its members, to manifest the unity of our faith in Jesus Christ as God and Savior, to foster Christian fellowship and love, to extend a helping hand to human need, and to achieve its objectives by the preaching of the Word of God, by the administration of the sacraments, and by the religious instruction of all its members according to the confessional standard of the Evangelical Lutheran Church.”

I certainly cannot find fault with anything it says, but it does seem to be rather inward directed to the internal needs of the congregation and does not say enough about evangelizing and serving the un-churched world around us.

Article III: Confessional Standard

Suggested Sample Provision

This Congregation accepts without reservation:

- 1. The Scriptures of the Old and the New Testament as the written Word of God and the only rule and norm of faith and of practice;*
- 2. 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.*

This Article III is a verbatim copy of the confessional provision contained in the LCMS's 2013 Revised Constitution as found in its Handbook on the LCMS website. The only thing I have changed is the lead-in sentence to make it apply to a congregation instead of the Synod. I suggest that each congregation simply use these paragraphs 1 & 2 without alteration. It contains everything you need and meets the Synod's requirement that each congregation adopt the confessional statement of the Synod.

Throughout the history of the Church, its confessional statements have been adopted in times of conflict and controversy as declarations of the Church's beliefs. Today, an area of controversy within our society and, unfortunately, within many church bodies, is the question of so-called "same sex marriage". Some within the Church feel this must be addressed in clear, unequivocal terms. Some feel it is a controversy best avoided. There are a multitude of opinions in between. Another question is whether a congregation, which wishes to declare its beliefs on this subject, should set forth its beliefs in its constitution or in a written policy statement such as a wedding policy or a facility use policy.

The following is a provision, which can be added to Article III of the congregation's constitution or used elsewhere in a policy statement. Because it is optional and a bit controversial, it has been omitted from the complete Model Constitution at the end of this paper.

This Congregation finds that in this present day and age it is also necessary to enunciate our deeply held belief regarding the institution of marriage:

We believe that marriage is a sacred union of one man and one woman (Genesis 2:18-25). As our Lord Jesus says in Matthew 19:4-6: “Haven’t you read that at the beginning the Creator made them male and female and said, ‘For this reason a man shall leave his father and his mother and be united to his wife and the two shall become one flesh’?” Completely opposite are sexual relations between people of the same sex, which are condemned and prohibited by God in both the Old and New Testaments (Lev. 18:22; 1 Cor. 6:9-10) as contrary to the Creator’s design (Rom. 1:18-32). Although all people are sinners and have fallen short of the glory of God, we cannot condone sin, including sin of sex sexual relations between people of the same sex. Therefore, while we will gladly minister to people who have an urge toward same sex relationships, because of our beliefs our pastors will not officiate over any marriages other than those between one man and one woman and our church property will not be used for any marriage ceremony, wedding reception or other activity that would be inconsistent with those beliefs regarding the God given institution of marriage.

This provision, regarding the institution of marriage, is based in large part upon the LCMS document, “Information on Marriage Policies for Member Congregations”, which can be found on the Internet at:

http://lcmسد.org/diyFiles/Marriage_Policies_for_LCMS_Member_Congregations_131119.pdf

“Unalterable Provisions”: Most of constitutions reviewed by the Southeastern District’s Constitutions and By-Laws Task Force contain a provision somewhere, which states that the Article on the Confessional Standard and perhaps a few other provisions, such as membership in the LCMS, are “unalterable” and cannot be amended. I suggest that nothing be designated as unalterable or not subject to amendment. Even the Synod does not have “unalterable” provisions in its own Constitution. At the 2010 Synod convention, the Synod changed the Confessional Standard by adding the “Treatise on the Power and Primacy of the Pope”. Later the Commission on the Handbook realized the “Treatise” was already included within one of the other confessional documents and deleted specific reference to it, but the point is that even the Synod can and does amend its confessional statement.

Rather than provide that certain articles of the constitution cannot be amended, it is better to provide that a two-thirds or a three-fourths “super majority” is required to amend the Constitution. If a two-thirds majority can be mustered to abandon the congregation’s confessional standard or membership in the Missouri Synod, the battle for pure doctrine within the congregation has already been lost and saying that the confessional article is “unalterable” will not win the battle.

Article IV: Synod Membership

Most of the members of our congregations probably consider themselves to be “members of the Lutheran Church – Missouri Synod. They are not. Under the Synod’s constitution, only congregations, pastors and commissioned church workers are members of the Synod. We laity are members of our congregation and our congregations, in turn, are members of the Synod. This reflects the fact that the LCMS has a congregational church polity. Our Synod is a grass roots organization of congregations cooperating together to provide church colleges, universities and seminaries and to do things together that we cannot do well as individual congregations such as sending out missionaries.

Therefore, the Synod requires that every congregation’s constitution must have an article saying it will be a member of the LCMS. Without that decision embodied in the Constitution, it cannot be a member of the LCMS.

Suggested Sample Provision

“This congregation shall be a member of The Lutheran Church—Missouri Synod as long as the Synod conforms to the Congregation’s confessional standards as set forth in this Constitution. Termination of the Congregation’s membership in the Lutheran Church – Missouri Synod shall require a two-thirds vote of the Voters’ Assembly.”

The first sentence in the sample paragraph is taken verbatim from the Synod’s Guidelines. The second sentence is mine. The first sentence sets a standard for leaving the Synod (i.e., the Synod has abandoned the true faith), but it says nothing about the procedure by which the congregation could decide to leave the Synod. The second sentence establishes the procedure and makes certain that it will not be done on the spur of the moment by the Church Council or by a simple majority of Voters’ Assembly.

Some congregations may wish to require an even larger majority than two-thirds and/or it may wish to require a larger than normal quorum for the Voters’ Assembly meeting at which termination of membership in the Synod is to be voted upon.

Article V: Membership in the Congregation

Suggested Sample Provision

“This Congregation consists of three types of members: Baptized, Confirmed, and Voting.

- 1. Baptized Members are all who have been baptized in the name of the Triune God and who are under the spiritual care of the pastor(s) of this Congregation, including the children who have not yet been confirmed into confirmed membership.*
- 2. Confirmed Members are those Baptized Members who have been instructed in and are familiar with the contents of Luther’s Small Catechism, have been*

confirmed in the Lutheran faith, and accept the confessional standard of Article II of this Constitution. A person, who has not been baptized before the age at which baptized children are normally confirmed in the faith within this Congregation, shall become a “Confirmed Member” when baptized, if he or she has been instructed in and is familiar with the contents of Luther’s Small Catechism and has accepted the confessional standard of Article II of this Constitution prior to baptism.

- 3. Voting Members are Confirmed Members who have reached the age of 18 years.*

The manner in which members of this Congregation are received into membership or removed from membership is set forth in the By-Laws.

The bulk of this provision comes from the Synod’s Guidelines, but has been modified in two ways. The Synod’s Guidelines seem to assume that every adult member was baptized as a child and then was confirmed in his or her early teens. It also implicitly assumes that a child first receives Communion when he or she is confirmed. Therefore, the three categories of membership used by the Guidelines are “Baptized, Communicant and Voting”.

Because we lived in an “un-churched” country and should be seeking to convert people of all ages, many of whom have not been baptized as a child and confirmed as teenager, I have added the second sentence in Section 2, which makes a “confirmed member” of a person who receives adult baptism.

I have also changed the Synod’s “Communicant Member” to “Confirmed Member” in recognition of the fact that some congregations allow children to receive communion prior to confirmation.

In Section 3 above, I have used age 18 as the age at which a Confirmed Member can start voting in the Congregation’s Voters’ Assembly, because that is the age at which a person of sound mind may first enter into binding contracts in Virginia. Members voting on issues such as entering into contracts with pastors and commissioned church workers, borrowing money, mortgaging the congregation’s land and buildings, etc. should be old enough to enter into contracts themselves. Check with a lawyer to find out what the age is in your own state.

Some congregations want teenagers to be able to vote in order to get them involved in the affairs of the congregation at an early age in order to develop life long habits of participation. I think this is a fine idea with regard to matters, which are purely internal to the congregation, such as the times for Sunday worship services. Because it should be avoided for contractual matters, the definition of a Voting Member would have to be written to allow confirmed members under the age of adulthood to vote on some matters, but to exclude them from votes on contractual and other matters for which they would have to meet the State’s age threshold for entering into binding contracts.

The Synod's Guidelines put the procedures for receiving people into membership and for terminating membership in the constitution. The sample provision I provided says those things are dealt with in the by-laws. This is in keeping with the idea of putting bulkier, more frequently changed matters in the by-laws.

Article VI: Governance of the Congregation

Suggested Sample Provision

The governance of the Congregation shall reside with the following bodies and offices:

1. *Voters' Assembly: The plenary authority to govern all the affairs of this Congregation shall reside in the Voters' Assembly, which consists of all the Voting Members of the Congregation.*
2. *There shall be a corporate Board of Directors called the Church Council, which shall consist of the Officers of the Congregation and two members at large elected from the Voting Members of the Congregation. The Church Council shall have the responsibility and complete power and authority for the governance of the Congregation and all of its business and spiritual affairs, except for the following matters, which are reserved exclusively to the Voters' Assembly.*
 - a. *Election of Officers.*
 - b. *Adoption of a Congregational Budget.*
 - c. *Calling of Pastors & Commissioned Ministers of Religion.*
 - d. *Ending the call of Pastors & Commissioned Ministers of Religion.*
 - e. *Authorizing new staff positions.*
 - f. *All statements of position on public policy and Synod affairs.*
 - g. *Major structural changes to the church facilities and all changes to the narthex, nave, and chancel, which would change their appearance, except for seasonal changes of paraments, temporary decoration, and the movement or addition of furnishings or other minor changes, any of which could be easily undone.*
 - h. *Permanent changes to regularly scheduled worship services.*
 - i. *Buying and selling real property.*
 - j. *Borrowing money and mortgaging or otherwise encumbering the Congregation's real and personal property.*
 - k. *Changes to the Constitution & By-Laws.*
3. *Officers of the Congregation: The Officers of the Congregation shall consist of a President, a First Vice-President, a Second Vice-President a Treasurer, and a Secretary, elected from among the Voting Membership in accordance with the By-Laws of the Congregation.*

4. *There shall be such Boards to carry on the work of the Congregation as are established by the By-Laws. In addition, the Voters' Assembly and/or the Church Council may establish such committees or other ad hoc groups as they deem proper.*
5. *The sole pastor or senior pastor, as the case may be, shall have the right, ex officio, to attend and be heard at all meetings of the Voters' Assembly, the Church Council, the various Boards, committees and other groups, except when matters are being considered, which concern him personally, such as his salary. He shall have no vote at the meetings of the Church Council, any Board or other group, except the Voters' Assembly.*
6. *The Voters' Assembly, the Church Council and any Board or other group shall prayerfully strive to make all decisions in accordance with the Word of God, but disputes over whether a decision was or was not in accordance with the Word of God shall not invalidate a decision.*

The Voters' Assembly is given "plenary authority" to govern the affairs of the Congregation. "Plenary" means complete and perfect. Likewise, the Church Council is given complete responsibility and authority to handle all of the congregation's affairs, except for the eleven areas of authority, which are reserved to the Voters' Assembly. This is done to avoid the situation found in some constitutions, in which the drafters attempt to list the specific powers of the Voters' Assembly and/or the Church Council. No matter how hard they try, they will inevitably result in missing some important powers. The lack of necessary authority may never be noticed until, for example, a lender asks for a copy of the Constitution and By-Laws and discovers that neither the Voters' Assembly nor the Church Council has authority to borrow money or mortgage the property. It is much safer to give complete authority, with specific listed exceptions, than it is to try to list specific powers.

Another advantage of giving the Church Council blanket authority to manage the congregation's affairs, with only specific limited exceptions, is that it helps protect the members of the Council from personal liability for debt incurred or other actions taken. Whatever they do on behalf of the congregation will not be "ultra vires" (i.e., outside of their authority) as long as they do not do those things specifically reserved to the Voters' Assembly.

In Section 2 of the sample, the Board of Directors of the incorporated congregation is named the "Church Council", because most congregations probably would prefer that name rather than "Board of Directors". Yet, it deals with the legal reality that the Council is in fact the Board of Directors of a corporation.

If your congregation is unincorporated, I would suggest giving the same powers to the church council and creating the same relationship between it and the Voters' Assembly, because doing so provides a clear-cut division of authority and is an effective way for a

congregation to operate. In that case, just amend the sample section to eliminate references to incorporation in the following manner:

There shall be a ~~corporate Board of Directors called the~~ Church Council, which shall consist of the Officers of the Congregation and two members at large elected from the Voting Members of the Congregation.

This Church Council consists of nine members. Based on experience, I think that is about the maximum number for an efficient, easily called working body. Seven would be even better and might be obtained by eliminating the second Vice President and one of the members at large. Some congregations have Church Councils with representation from every Board and committee, with the idea that it will coordinate the activities of these groups. I think it far better to have a smaller Church Council, with members chosen both because they are devout Christians and because they have valuable practical experience and education.

The various Boards, committees, etc. are not listed here. It is better to place them in the By-Laws where their existence and duties can be more readily amended as needed.

Many congregations make their pastor or senior pastor a voting member of the Church Council or they provide that he shall be a member “ex officio”, without saying whether or not he gets to vote and without saying that he cannot vote on his own salary and other matters involving him personally. Many congregations erroneously think that “ex officio” means that he is a member, but cannot vote. “Ex officio” is merely a Latin phrase meaning “because of office”. It does not mean that the pastor cannot vote. Effective pastors are exceedingly influential and do not need a vote on the Church Council to get things done their way. Furthermore, not giving the pastor a vote has the advantage of keeping him above the fray. He can influence the result by what he says, but he does not have to take sides by voting with one group or another.

In a way, Section 6 states the obvious; we should make all decisions prayerfully and in accordance with the Word of God. I have put it here, however, because most of the constitutions seen by the Constitutions and By-Laws Task Force have provision stating that any decisions made by the Voters’ Assembly, which are not in accordance with the Word of God are null and void. These provisions never state who is supposed to decide whether or not a decision has been made in accordance with the Word of God. This could lead to unnecessary disputes within a congregation and, in rare cases, even litigation. No civil court judge wants to decide matters of theology and most Christians would not want them to. Therefore, I have added a sentence saying that any decision made is valid, even if some folks think it is not in accordance with the Word of God.

You will notice here that there is no provision here for “Trustees”. That is because this is a sample constitution for a congregation that is incorporated.

I do not know about other states with the Southeastern District, but in the Commonwealth of Virginia “Trustees” are needed only for unincorporated congregations. Before the

incorporation of congregations was permitted, the statutes of the Commonwealth provided that Trustees would be nominated by the congregation and appointed by the local Circuit Court to hold title to the real and personal property of the congregation for the benefit of the congregation and to represent it in all legal matters. These statutes still apply to unincorporated congregations. A corporation, on the other hand, holds title to its own property and its officers act on its behalf in legal matters such as signing deeds, borrowing money or litigation. Therefore, no trustees are needed.

A few congregations call the committee that takes care of the congregation's buildings and grounds the "Trustees".

The Constitutions and By-Laws Task Force sees constitutions from some incorporated congregations that still make provision for Trustees. I do not know whether that is because of the state law where they are located, but I doubt it. I suspect it is a carry-over from the days before these congregations were incorporated. Still other congregations call the Board responsible for the care of the congregation's land and buildings the "Trustees". Again, I suspect the name has been carried over from earlier times. I strongly suggest that you call them something else, such as the "Buildings and Grounds Committee" to avoid confusing them with legal trustees. Do not to use the term "Trustees", unless you have an unincorporated congregation with real, court appointed trustees.

Article VII: Called Church Workers

Suggested Sample Provision

- 1. The Congregation shall call only ordained pastors and commissioned church workers who are rostered or otherwise approved by the Lutheran Church – Missouri Synod. They shall be selected in accordance with the procedures set forth in this Congregation's By-Laws and must be approved by a two-thirds majority vote of the Voters' Assembly.*
- 2. Although calls for life are the norm within the Lutheran Church – Missouri Synod, the Voters' Assembly may also call a candidate for a term of years or impose other conditions upon the call.*
- 3. Called ordained pastors or commissioned church workers may be removed from office in Christian and lawful order by a two-thirds majority written ballot vote of the Voters' Assembly for one of the following reasons: persistent adherence to false doctrine, scandalous life, willful neglect of the duties of office, the inability to perform those duties, ineffectiveness, or domineering in office. This limited list of reasons for removal from office does not preclude eliminating the office to which the person was called because of financial or other reasons.*
- 4. When a vacancy occurs in an office of an ordained pastor or commissioned church worker, the Congregation shall notify the President*

of the District to receive assistance in temporarily filling the vacancy and to receive his counsel in calling a new pastor or commissioned church worker.

This is a considerably simplified version of what the Synod's Guidelines provide. For example, the Synod's sample provision deals with calling seminary students, who are not yet on the Synod's roster of pastors, and calling pastors from church bodies other than the LCMS which are in altar and pulpit fellowship with the LCMS. In the interest of simplicity and brevity, I have covered such situations with the words "otherwise approved". If the need arises, the President of the District can explain all this to a congregation.

Like the Synod's Guidelines, this provision requires a two-thirds vote in the Voters' Assembly for extending a call. This is based on the theory that, if a congregation cannot get at least a two thirds vote to call a particular pastor, it would be better off calling someone else.

Section 2 is likely to raise more controversy than any other sample provision that have been provided, because throughout the LCMS calls are usually regarded as being a call for life. However, exceptions exist. For example, called workers at the SED headquarters are called for the term of a newly elected District President. When a different President is elected, he then has the option of retaining the called worker or replacing him/her. Also, it may be advisable to extend a call conditioned on the person coping successfully with a personal problem such as drug or alcohol addiction. Another thing that a congregation may want to consider is the deleterious results of having the same pastor for 25, 30 or more years. Congregations usually experience difficulty adjusting after such as lengthy pastorate and the calling of interim pastors has become common so that the next pastor called does not become an "unintentional interim". Calling an interim pastor is certainly an example of the need to call for a short term of years.

Section 3 contains a sentence to make it clear that a called pastor or commissioned worker may be removed from the congregation's payroll without finding any fault, if the position to which he was called was eliminated for financial or other reasons.

Article VIII: By-Laws

Suggested Sample Provision

The Voters' Assembly of this Congregation may adopt such By-Laws as it deems suitable for the implementation of this Constitution and for the work of God in its midst. In the event of a conflict between the terms of this Constitution and the By-Laws, the terms of this Constitution shall control.

This article specifically authorizes the creation of By-Laws. Even more importantly, it makes the Constitution the ruling document in case of any conflict in the terms of the Constitution and By-Laws. All good drafters strive to avoid such conflicts of terms, but it happens from time to time and then it is good to have a provision such as this, which says the Constitution rules.

Article IX: Division or Dissolution of the Congregation

Suggested Sample Provision

- 1. If at any time for any reason the Congregation should split into two or more parts and cease to function as a single congregation, the property of the Congregation and all benefits connected therewith shall be given to that group or groups of Voting Members, who continue to adhere in confession and practice to the confessional standards set forth in this Constitution and who seem most likely to continue as a viable congregation or congregations. The decision as to how the assets and liabilities should be divided among the contending factions shall be decided by a three person investigatory panel appointed by the President of the District of The Lutheran Church—Missouri Synod to which the Congregation belongs. The decision of such a panel shall be unappealable and shall be enforceable in a court of law.*
- 2. In the event that the Congregation dissolves and ceases to exist, all property shall be used by the Voters' Assembly and the Church Council for the payment of debts and all just claims against the Congregation, and any and all surplus and all rights connected therewith shall be conveyed to and become the property of the District of The Lutheran Church—Missouri Synod to which the Congregation belongs.*

These provisions are similar to the ones suggested by the Synod's Guidelines, but Section 1 contemplates the possibility that there may be more than two factions, whereas the Synod's Guidelines assume that there will be only two, one with correct doctrine and one that is heterodox. Both in the Synod's Guideline and in the constitutions, which we see on the Constitution and By-Law Task Force, no person or body is designated to determine which faction adheres to correct doctrine and should get the property. Litigation will probably result as the competing factions fight for the property, but no court will want to make doctrinal judgments and most Lutherans would not want a secular court to do so. It would be better to designate some trusted person or group to make the decision. For that reason, Section 1 provides for a three-person panel, appointed by the President of the District, which will look into matters and make a legally binding and enforceable decision. Then let the courts enforce that decision.

In Section 2, the Synod's Guidelines would have a congregation name the District in which the congregation is located and make it the recipient of the congregation's assets in the event that the congregation should dissolve. This Section 2 changes that to "the

District of The Lutheran Church—Missouri Synod to which the Congregation belongs”. The reason for this change is that the boundaries of districts can and do change and a congregation may someday find itself in another district. Using the suggested language, there would be no need to amend the Constitution to name a new district.

Article X: Amendments

Suggested Sample Provision

Amendments to this Constitution and the Congregation’s By-Laws may be adopted at a meeting of the Voters’ Assembly, provided that the proposed amendment has been published to the Voting Membership at least one month prior to the vote. The proposed amendment may itself be amended, at the Voters’ Assembly at which it was to be considered and voted upon, so long as it pertains to the subject matter of the originally proposed amendment. The affirmative vote of a two-thirds majority of the voting membership present at the Voters’ Assembly shall be required for the adoption of an amendment to the Constitution. The Congregation’s By-Laws may be amended by a simple majority.

At least a month’s notice to the congregation is required so that members have ample time to learn about the proposed changes and arrange to be at the Voters’ Assembly meeting.

A two-thirds majority is needed to amend the Constitution, because it contains the really important basics, such as the confessional standard, which shouldn’t be changed often, if ever.

The By-Laws can be amended by a simple majority, because it contains the working level detail about committees and procedures, etc. that need to be changed more often.

This is the whole reason for having both a Constitution and a set of By-Laws: have one document containing the really important stuff, the Constitution, and make it very hard to change, and have another document with the less important detail, the By-Laws, and make it easy to change.

Article XI: Miscellaneous Provisions

Suggested Sample Provision

- 1. For the sake of brevity, a masculine or feminine pronoun (e. g., he or she) used in the Constitution and By-Laws shall be deemed to include both the feminine and masculine, unless the context clearly requires either one gender or the other. Pronouns referring to ordained pastors shall always be deemed to be masculine only.*

2. *Captions of Articles, sections and subsections in the Constitution and By-Laws of this Congregation are for convenience in locating subject matter only and are not a substantive part of the provision.*

These are provisions that only a lawyer could love, but they are handy. With Section 1, you don't have to keep writing "he/she" in sentences. Either "he" or "she" means both he and she, except when you are referring to a pastor.

Pay close attention to Section 2 when drafting the Constitution and By-Laws. Each article should make complete sense on its own without the caption. Too frequently, drafters write a caption and add a list below it and there is no complete sentence explaining what it is all supposed to mean.

Article XII: Language

Suggested Optional Provision

Because this Congregation was established to serve immigrants to the United States of America and their descendants, who speak the _____ language, worship and teaching within this congregation shall be conducted primarily in the _____ language. The Constitution and By-Laws of this Congregation and legal documents, such as Articles of Incorporation, shall be written in the English language, but they may be translated into _____ for use by members within the Congregation.

The Entire Model Constitution

The Constitution Of

Lutheran Church

Article I: Name of the Congregation

The name of this Congregation shall be “_____ Lutheran Church”. It is located in _____ County (*the City of _____*), in the State (*or Commonwealth*) of _____. The Congregation is incorporated as a not-for-profit corporation under the laws of the State (*or Commonwealth*) of _____.

Alternative Provision for Unincorporated Congregations:

The name of this Congregation shall be “_____ Lutheran Church”. It is located in _____ County (*the City of _____*), in the State (*or Commonwealth*) of _____. It is an unincorporated church under the laws of the State (*or Commonwealth*) of _____.

Article II: Mission

Write your own and make it fit your congregation.
You may wish to start with the Synod’s standard Mission statement shown above.

Article III: Confessional Standard

This Congregation accepts without reservation:

1. The Scriptures of the Old and the New Testament as the written Word of God and the only rule and norm of faith and of practice;
2. 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.

Article IV: Synod Membership

This congregation shall be a member of The Lutheran Church—Missouri Synod as long as the Synod conforms to the Congregation's confessional standards as set forth in this Constitution. Termination of the Congregation's membership in the Lutheran Church – Missouri Synod shall require a two-thirds vote of the Voters' Assembly.

Article V: Membership in the Congregation

This Congregation consists of three types of members: Baptized, Confirmed, and Voting.

1. Baptized Members are all who have been baptized in the name of the Triune God and who are under the spiritual care of the pastor(s) of this Congregation, including the children who have not yet been confirmed into confirmed membership.
2. Confirmed Members are those Baptized Members who have been instructed in and are familiar with the contents of Luther's Small Catechism, have been confirmed in the Lutheran faith, and accept the confessional standard of Article II of this Constitution. A person, who has not been baptized before the age at which baptized children are normally confirmed in the faith within this Congregation, shall become a "Confirmed Member" when baptized, if he or she has been instructed in and is familiar with the contents of Luther's Small Catechism and has accepted the confessional standard of Article II of this Constitution prior to baptism.
3. Voting Members are Confirmed Members who have reached the age of 18 years.

The manner in which members of this Congregation are received into membership or removed from membership is set forth in the By-Laws.

Article VI: Governance of the Congregation

The governance of the Congregation shall reside with the following bodies and offices:

1. Voters' Assembly: The plenary authority to govern the all the affairs of this Congregation shall reside in the Voters' Assembly, which consists of all the Voting Members of the Congregation.

2. There shall be a corporate Board of Directors called the Church Council, which shall consist of the Officers of the Congregation and two members at large elected from the Voting Members of the Congregation. The Church Council shall have the responsibility and complete power and authority for the governance of the Congregation and all of its business and spiritual affairs, except for the following matters, which are reserved exclusively to the Voters' Assembly.
 - a. Election of Officers.
 - b. Adoption of a Congregational Budget.
 - c. Calling of Pastors & Commissioned Ministers of Religion.
 - d. Ending the call of Pastors & Commissioned Ministers of Religion.
 - e. Authorizing new staff positions.
 - f. All statements of position on public policy and Synod affairs.
 - g. Major structural changes to the church facilities and all changes to the narthex, nave, and chancel, which would change their appearance, except for seasonal changes of paraments, temporary decoration, and the movement or addition of furnishings or other minor changes, any of which could be easily undone.
 - l. Permanent changes to regularly scheduled worship services.
 - m. Buying and selling real property.
 - n. Borrowing money and mortgaging or otherwise encumbering the Congregation's real and personal property.
 - o. Changes to the Constitution & By-Laws.
3. Officers of the Congregation: The Officers of the Congregation shall consist of a President, a First Vice-President, a Second Vice-President a Treasurer, and a Secretary, elected from among the Voting Membership in accordance with the By-Laws of the Congregation.
4. There shall be such Boards to carry on the work of the Congregation as are established by the By-Laws. In addition, the Voters' Assembly and/or the Church Council may establish such committees or other ad hoc groups as they deem proper.
5. The sole pastor or senior pastor, as the case may be, shall have the right, ex officio, to attend and be heard at all meetings of the Voters' Assembly, the Church Council, the various Boards, committees and other groups, except when matters are being considered, which concern him personally, such as his salary. He shall have no vote at the meetings of the Church Council, any Board or other group, except the Voters' Assembly.
6. The Voters' Assembly, the Church Council and any Board or other group shall prayerfully strive to make all decisions in accordance with the Word of

God, but disputes over whether a decision was or was not in accordance with the Word of God shall not invalidate a decision.

Article VII: Called Church Workers

1. The Congregation shall call only ordained pastors and commissioned church workers who are rostered or otherwise approved by the Lutheran Church – Missouri Synod. They shall be selected in accordance with the procedures set forth in this Congregation’s By-Laws and must be approved by a two-thirds majority vote of the Voters’ Assembly.
2. Although calls for life are the norm within the Lutheran Church – Missouri Synod, the Voters’ Assembly may also call a candidate for a term of years or impose other conditions upon the call.
3. Called ordained pastors or commissioned church workers may be removed from office in Christian and lawful order by a two-thirds majority written ballot vote of the Voters’ Assembly for one of the following reasons: persistent adherence to false doctrine, scandalous life, willful neglect of the duties of office, the inability to perform those duties, ineffectiveness, or domineering in office. This limited list of reasons for removal from office does not preclude eliminating the office to which the person was called because of financial or other reasons.
4. When a vacancy occurs in an office of an ordained pastor or commissioned church worker, the Congregation shall notify the President of the District to receive assistance in temporarily filling the vacancy and to receive his counsel in calling a new pastor or commissioned church worker.

Article VIII: By-Laws

The Voters’ Assembly of this Congregation may adopt such By-Laws as it deems suitable for the implementation of this Constitution and for the work of God in its midst. In the event of a conflict between the terms of this Constitution and the By-Laws, the terms of this Constitution shall control.

Article IX: Division of the Congregation

1. If at any time for any reason the Congregation should split into two or more parts and cease to function as a single congregation, the property of the Congregation and all benefits connected therewith shall be given to that group or groups of Voting Members, who continue to adhere in confession and practice to the confessional standards set forth in this Constitution and who seem most likely to continue as a viable congregation or congregations. The

decision as to how the assets and liabilities should be divided among the contending factions shall be decided by a three person investigatory panel appointed by the President of the District of The Lutheran Church—Missouri Synod to which the Congregation belongs. The decision of such a panel shall be unappealable and shall be enforceable in a court of law.

2. In the event that the Congregation dissolves and ceases to exist, all property shall be used by the Voters' Assembly and the Church Council for the payment of debts and all just claims against the Congregation, and any and all surplus and all rights connected therewith shall be conveyed to and become the property of the District of The Lutheran Church—Missouri Synod to which the Congregation belongs.

Article X: Amendments

Amendments to this Constitution and the Congregation's By-Laws may be adopted at a meeting of the Voters' Assembly, provided that the proposed amendment has been published to the Voting Membership at least one month prior to the vote. The proposed amendment may itself be amended, at the Voters' Assembly at which it was to be considered and voted upon, so long as it pertains to the subject matter of the originally proposed amendment. The affirmative vote of a two-thirds majority of the voting membership present at the Voters' Assembly shall be required for the adoption of an amendment to the Constitution. The Congregation's By-Laws may be amended by a simple majority.

Article XI: Miscellaneous

1. For the sake of brevity, a masculine or feminine pronoun (e. g., he or she) used in the Constitution and By-Laws shall be deemed to include both the feminine and masculine, unless the context clearly requires either one gender or the other. Pronouns referring to ordained pastors shall always be deemed to be masculine only.
2. Captions of Articles, sections and subsections in the Constitution and By-Laws of this Congregation are for convenience in locating subject matter only and are not a substantive part of the provision.

Article XII: Language

(Optional for Ethnic Congregations)

Because this Congregation was established to serve immigrants to the United States of America and their descendants, who speak the _____ language, worship and teaching within this congregation shall be conducted

primarily in the _____ language. The Constitution and By-Laws of this Congregation and legal documents, such as Articles of Incorporation, shall be written in the English language, but they may be translated into _____ for use by members within the Congregation.