

**BYLAWS
OF THE
FIRST LUTHERAN CHURCH FOUNDATION OF MARSHALL, MN, INC.
(AS AMENDED SEPTEMBER 30, 2018)**

PREAMBLE

The First Lutheran Church Foundation of Marshall, Minnesota, Inc. (hereinafter Foundation) shall act pursuant to the purposes as described and limited in its Articles of Incorporation.

**ARTICLE I
OFFICES**

The principal and registered offices of the Foundation shall be located in the City of Marshall, Minnesota. The Foundation may have such other offices either within or without of the state of its incorporation, as the Board of Directors (hereinafter Board) may designate or as the business of the Foundation may require from time to time.

**ARTICLE II
MEMBERSHIP AND MEETINGS**

SECTION 1. MEMBERSHIP QUALIFICATIONS

- (a) The Board shall establish, review, and change as required qualifications and standards for membership.
- (b) Membership in First Lutheran Church of Marshall, Minnesota qualifies that person for membership in this Foundation.
- (c) Former members and non-members of First Lutheran Church of Marshall, Minnesota, who financially support the Foundation and its mission, may become members of the Foundation, subject to approval by the Board.
- (d) Membership for entities other than natural persons shall be at the discretion of the Board, and shall be documented in the form of a formal Board resolution.
- (e) The Executive Committee has the power to temporarily suspend membership for cause. The Board has the power to, after notice and hearing, terminate membership for cause and to refuse to accept an application for membership or for renewal thereof. The members, may, after notice and hearing, terminate a membership with or without cause or refuse, with or without cause to approve.
- (f) Voting membership will be open without any unlawful discrimination to any and all interested persons or entities meeting the qualification criteria set forth herein.

- (g) All members, whether natural persons or other entities, may designate one representative in writing to vote for them, either in person or by proxy, as may natural person voting members.
- (h) Non-voting members to include honorary and life memberships may be so designated by Board resolution, and may be suspended without notice and hearing, with or without cause, by Board resolution.

SECTION 2. ANNUAL MEETING.

The Annual Meeting of the voting members shall be held within 60 days of the close of the fiscal year for the purposes of electing directors, review of the annual report, and the transaction of such other business as may come before the meeting. If the election of the directors and review of the annual report are not held or completed at any Annual Meeting of the membership or at adjournment thereof, the meeting of the voting members as soon thereafter as conveniently may be noticed.

SECTION 3. SPECIAL MEETINGS.

Special meeting of the voting members for any purpose or purposes unless otherwise prescribed by statute, may be called by the President or by the Board and shall be called within 10 to 60 days by the President at the written request of any two or more members entitled to vote at said membership meeting.

SECTION 4. PLACE OF MEETINGS.

The Board may designate by notice any place either within or without of the state of incorporation as the place of meeting for any annual meeting or for any special meetings called. A waiver of notice signed by all members entitled to vote at a meeting may designate any place as the place for holding of such meeting.

SECTION 5. NOTICE OF MEETING.

Written or printed notice stating the place, date, and hour of the meeting and proposed amendments to the Articles of Incorporation and the Bylaws and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than 5 nor more than 60 days before the date of the meeting, by distribution at two or more public services of First Lutheran Church of Marshall, Minnesota, by public posting at First Lutheran Church of Marshall, Minnesota, electronically, or by U.S. Mail, by or at the direction of the President or the Secretary or by the officers or persons calling the meeting, to each member entitled as of the date of mailing or personal or electronic delivery to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. Mail addressed to the person at his/her address as it appears on the records of the Foundation with postage thereon prepaid. A copy of said notices shall be maintained in Foundation records.

SECTION 6. VOTING.

Each member in good standing at the beginning of the meeting shall be entitled to one vote at all meetings of the membership of the Foundation. The Board will establish by resolution proxy rules per statute. There shall be no cumulative voting. Unless otherwise provided, an act by majority of the member present is an act of the membership if a quorum is present at the time of vote. Voting may be by mail or by electronic conference per statute.

SECTION 7. QUORUM.

A quorum for purposes of the Annual Meeting and any special meetings of the membership of the Foundation shall consist of 50 voting members.

SECTION 8. MEMBERSHIP RESOLUTIONS.

As provided by law, by the Articles of Incorporation, by the Bylaws, and by the Board Resolution.

ARTICLE III
THE BOARD OF DIRECTORS

SECTION 1. POWERS AND RESTRICTIONS.

The Board shall have full responsibility for determining, implementing, and monitoring policies governing operation of the Foundation. The Board shall perform all acts and functions not inconsistent with the Articles of Incorporation and Bylaws provided, however, that no indebtedness except for current operating expenses approved in advance by the Board or Executive Committee shall be incurred by or on behalf of the Foundation unless authorized in advance by a vote of the members, nor shall real estate be acquired, disposed of, or encumbered by or on behalf of the Foundation unless authorized by a vote of the members.

SECTION 2. COMPOSITION AND TERM OF OFFICE.

- (a) The number of Voting Directors of the Foundation shall be no fewer than 3 no more than 9. Directors need not be residents of the state of incorporation, but must be members in good standing of the Foundation. Each year, the Board, either directly or by action of an appointed special committee, shall recommend to the voting membership of the Foundation the number of Directors desired for the next year, and the names of the nominees the Board recommends to fill such positions. By voting on the nominations, the membership shall ratify or amend the Board's recommendation for the coming fiscal year.
- (b) The term of office for a Director shall be three years with approximately 1/3 of the members elected each year. Initial terms shall be staggered for one, two, and three years to establish continuity.

- (c) Directors shall serve for no more than six consecutive years, but may be eligible for re-election after having been off the Board for one year.

SECTION 3. EX OFFICIO NON-VOTING DIRECTORS.

Ex officio non-voting Directors serve on the Board by virtue of their official position and/or by board resolution. An ex officio non-voting Director shall be annually re-appointed. Such a Director by virtue of his/her official position shall be considered each year for re-appointment by the Board, but shall automatically resign that position when that person no longer holds that official position which is the basis for the membership. The successor will be considered by the Board at that time. The Executive Committee may temporarily suspend such a Director without notice and hearing. The Board may terminate such a Director without notice and hearing. Church pastors are ex officio non-voting Directors.

SECTION 4. ATTENDANCE.

For the purpose of conducting the business of the organization, Directors are encouraged to attend all meetings of the Board. However, failure to attend without good cause may be grounds for removal from the Board.

SECTION 5. RESIGNATION AND REMOVAL.

Any Director may resign from the Board at any time by giving written notice to the President or to the Secretary of the Foundation. Such resignation will become effective on the date of receipt. Any elected voting member of the Board may be removed from office after notice and hearing with or without cause by a resolution approved by two-thirds of the Directors present, or by a majority of the members present.

SECTION 6. REGULAR MEETINGS.

Regular meetings of the Board shall be held without other notice than this Bylaw as follows:

- (a) Immediately before or after, and at the same place as any annual or special meeting of the voting membership of the Foundation; and
- (b) At other times, dates, frequencies, and places as designated by Board resolution.

SECTION 7. SPECIAL MEETING.

Special meetings may be called at the written request of the President or any two Directors. The person or persons authorized to call special meetings may fix any place for holding any special meeting of the Board called by them.

SECTION 8. NOTICE.

Notice of the special meeting shall be given at least five days previous thereto, by written notice delivered personally or mailed to each Director at his/her business or home address, or

by electronic means. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed with Postage thereon prepaid. Any Director may waive in advance notice of any or all meetings. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except when a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened, or because a quorum was not present. Neither the business to be transacted, nor the purpose or purposes of any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting. However, an agenda and supporting information will normally be included with the notice of a special meeting or with the reminder as to regular meetings. Meetings may be by electronic conference per statute.

SECTION 9. QUORUM.

Attendance by a simple majority of the total number of eligible Voting Directors shall constitute a quorum. Each Voting Director shall have one vote. Unless otherwise required, an act by a majority of the Voting Directors present is an act of the Board if a quorum is present.

SECTION 10. INFORMAL ACTION BY DIRECTORS.

Any action that may be taken at a meeting of the Board may be taken without a meeting if the action is approved in advance by all Directors and subsequently approved in writing by all Directors.

SECTION 11. VACANCIES.

Any vacancy in a term of office of one or more Directors resulting from death, disability, resignation, or removal shall be filled by the remaining Directors of the Foundation for the balance of the term so vacated.

SECTION 12. FUNCTIONS OF THE BOARD OF DIRECTORS.

- (a) Establish Board procedures for conducting business.
- (b) Establish goals and policies for the Foundation.
- (c) Determine, implement, and monitor policies governing operation.
- (d) Develop and update the long-range plans.
- (e) Provide for financial stability to include approval of the proposed budget, review of the on-going budget and fiscal year, review of the financial statements for the prior fiscal year, and approval of the Annual Report for review by the membership.
- (f) Authorize, approve job descriptions, and approve evaluation standards for Foundation employees and agents.

- (g) Evaluate all phases of the Foundation program including its past, current, and future operation and quality of care.
- (h) Evaluate Foundation services in light of the needs of First Lutheran Church of Marshall, Minnesota and other needs in keeping with the mission of the Foundation.
- (i) Evaluate Foundation services with respect to expected standards of Foundation practices.
- (j) Review and ratify or change Executive Committee action.

SECTION 13. EMPLOYEES AND AGENTS.

- (a) Employees and agents:

The Executive Committee shall select, and annually appoint or reappoint, and if required, terminate experienced and qualified individuals to serve in employee or agent positions authorized by the Board.

- (b) Employee and Agent Authority, Duties, Responsibilities, and Evaluation Standards:

The Board by resolution shall approve job descriptions, authorities, duties, responsibilities, and evaluation standards for employees and agents. Said resolutions will be in accordance with law, regulations, the Articles of Incorporation, the Bylaws, and other Board resolutions. Foundation committee policies may be followed when not in conflict with Board resolutions. The employee or agent will promptly report to the Executive Committee and/or the Board any conflicts in job description, authorities, duties, and responsibilities, and evaluation standards.

- (c) Implementation of Evaluation Standards and Procedures:

The Executive Committee is responsible for implementation of evaluation standards and procedures.

- (d) Suspension and Termination:

The Executive Committee may, without notice or hearing and with or without cause, temporarily suspend any employee or agent. The Executive Committee may after notice and hearing with or without cause terminate any employee or agent. The Board may reverse by a two-thirds vote an Executive Committee action either to terminate or to retain.

- (e) Tenure:

No agent or employee shall be appointed for more than one year. Incumbents shall be considered for reappointment but need not be reappointed.

SECTION 14. FISCAL AGENT.

The Board may elect, annually appoint or reappoint, evaluate, and, if required, terminate, a Fiscal Agent to perform financial and related managerial services on contract. The Executive Committee may temporarily suspend without notice or hearing and with or without cause by said Fiscal Agent. The Board may terminate, without notice or hearing and with or without cause said Fiscal Agent.

SECTION 15. OTHER CONTRACTS.

The Board may contract out other services as required and by resolution pursuant to the budget process.

**ARTICLE IV
OFFICERS**

SECTION 1. NUMBER.

The officers of the Foundation shall be one President, one Vice President, one Secretary, one Treasurer, and others as may be designated by the Board, each of whom shall be elected by the Board.

SECTION 2. ELECTION AND TERM OF OFFICE.

The officers of the Foundation to be elected by the Board shall be elected annually by the Board, at the first meeting of the Board held after each annual meeting of the members. If such election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his/her successor shall have duly elected and shall have been oriented to the function of the Board or until his/her death or until he/she shall resign or shall have been removed in manner hereinafter provided. Officer shall be elected voting Board members.

SECTION 3. REMOVAL.

Any officer may be temporarily suspended without notice or hearing and with or without cause by the Executive Committee and may be removed or terminated by the Board after notice and hearing with or without cause by a two-thirds vote of the Directors at a meeting of the Board, or by a majority vote of the members present.

SECTION 4. VACANCIES.

A vacancy in an office because of death, resignation, removal, disqualifications, or otherwise, will be filled by the Board, for the unexpired portion of the term.

SECTION 5. THE PRESIDENT.

The President shall be the principal officer of the Foundation and shall preside, when present, at all meetings of the Board, Executive Committee, and meetings of members of the Foundation. The President may sign on behalf of the Foundation any documents or instruments which the Board has authorized to be executed, except where the signing and execution thereof is expressly delegated by the Board or by these Bylaws to some other officer or agent, or is required by law to be otherwise signed or executed. The President shall also perform all duties incident to the office of President and such other duties as may be prescribed by the Board from time to time. The President shall chair the Executive Committee.

SECTION 6. THE VICE PRESIDENT.

In the absence of the President or in the event of their death, inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as, from time to time, may be assigned to them by the President or by the Board.

SECTION 7. THE SECRETARY.

The Secretary shall:

- (a) Be custodian of all official Foundation records.
- (b) Keep the Minutes of the Board's meetings in one or more books or electronic devices provided for that purpose.
- (c) Ensure that such Minutes, and other Foundation records, are maintained in a secure place that is known to the members of the Board, and that provides appropriate access for current and future users.
- (d) See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law. Accept written dissents by Foundation members, if and when they are presented.
- (e) Keep a roster showing the names and addresses of all the current members of the Foundation.

SECTION 8. THE TREASURER.

The Treasurer shall be the custodian of all funds of the Foundation, and shall administer all such funds in accordance with the decisions of the Board. The Treasurer shall keep or cause to be kept correct and accurate accounts of the properties and financial transactions of the Foundation, and shall perform all duties incident to the office and such other duties as may be assigned from time to time by the President or the Board. If determined necessary or desirable by the Board, the Treasurer shall be bonded; the cost of any such bond shall be

borne by the Foundation. The Treasurer may delegate any of his/her duties to any duly elected or appointed assistant treasurer or fiscal agent per Board resolution. The Treasurer shall ensure that the Foundation complies with all laws, regulations, and generally accepted accounting principles related to the Foundation's operations. The Treasurer shall establish procedures to ensure two-person control over all receipts and expenditures.

SECTION 9. EMPLOYEE AND AGENT STATUS.

Employees and agents who are not voting members of the Foundation shall be ineligible to serve as voting Directors, Officers, or committee members. The Pastors shall be ex officio non-voting members of the Foundation, the Board, the Executive Committee, and except as otherwise expressly provided, of any other Board committees. The employees and agents, if any, shall act as the duly authorized representatives of the Foundation, Board, and any Board committees to the extent their job description, authorities, duties, and responsibilities allow, or as otherwise permitted or directed by law and regulation, the Articles of Incorporation, the Bylaws, the Foundation membership, Board, and Board committees. If any employee or agent believes that there is a conflict or problem in this area, he/she will promptly report to the Executive Committee and/or the Board so that corrective action may be taken.

ARTICLE V BOARD COMMITTEES

SECTION 1. COMMITTEES.

- (a) The Foundation shall have a standing Executive Committee and the Board may appoint other committees by Board resolution as it deems appropriate.
- (b) Executive Committee.

The Executive Committee shall consist of the four Foundation Officers, consisting of the President as Chairperson, the Vice President as Assistant Chairperson, the Secretary, and the Treasurer. The Pastors shall be ex officio non-voting members of the Executive Committee. The Executive Committee shall act for and represent the Board when the Board is not in session and shall exercise all powers of the Board except as limited by law and regulation, the Articles of Incorporation, the Bylaws, or by Board resolution. The Executive Committee is at all times subject to the control and direction of the Board, as are all Special Committees.

- (c) Special Committees may be appointed by the Executive Committee subject to subsequent approval by the Board or by the Board for such special tasks as circumstances might warrant. A Special Committee shall be limited in its activities to accomplishing the task for which it was created. Special Committees shall have no powers except as specifically conferred by the Board. Upon completion of the appointed task, each Special Committee shall be discharged. Special Committees may be composed of Officers, Voting Directors and/or other members in good standing of the Foundation.

(d) Except as limited by the Bylaws, the Board shall select, appoint, reappoint, evaluate, and, if necessary, terminate committee members. If status as a Director or an Officer is a pre-requisite to committee membership or chair status, loss of that status automatically terminates the committee membership and/or chair status. The Board may with or without cause terminate any committee chair or member, subject to the normal rules governing Board voting. The Board by resolution may designate Directors as co-chairs, assistant chairs, or acting chairs of a committee as required. If no Director is available, the Board may designate a non-Director committee member as a co-chair, assistant chair, or acting chair.

ARTICLE VI PROFESSIONALS

SECTION 1. APPOINTMENT.

The Foundation shall make no appointments, recommendations or referrals of attorneys, accountants or estate planning professionals to any members or non-members who have indicated an interest in making contributions to this Foundation. The Foundation will recommend that any such contributors or potential contributors seek professional legal, tax, accounting or estate planning advice from professionals they select who are familiar with their specific circumstances.

ARTICLE VII GENERAL PROVISIONS

SECTION 1. ANNUAL REPORT.

Within 30 days after the close of each fiscal year, the President and the Treasurer with the assistance of the other Board members as necessary, the Fiscal and Fund Agents if any, and others shall submit the draft Annual Report for review and recommendation to the Board. Prior to the Annual Meeting, the Board shall review, revise if necessary, and approve the Annual Report which shall be available to voting members in good standing at the Annual Meeting.

SECTION 2. INDEMNIFICATION.

The organization shall indemnify and hold harmless each person or his/her legal representative or successor, who has served, is serving or shall serve at any time hereinafter as Officer, Director, or member of the Board, the Executive Committee or any Special Committees from and against any and all claims and liability, including reasonable attorney's fees and such amount of any judgment, decree, fine or penalty imposed upon him by a Court of competent jurisdiction, which is found to be reasonable by said Board, to which any such person shall become subject by reason of his/her having heretofore or hereinafter being and officer, director, or member of any Board Committee or of the Foundation, or by reason of any action alleged to have been heretofore or hereinafter taken or omitted by him/her as such officer, director or member of any Board Committee and shall reimburse each such person

for all legal and other expenses reasonable incurred by them including reasonable attorney's fees, all of which have been found by the Board to be reasonable in connection with any claim of liability; provided, however, that no such person shall be indemnified against or be reimbursed for, any expenses incurred in connection with any claim or liability arising out of his/her own negligent or willful misconduct unless either:

- (1) He/she is successful in his/her defense on the merits, or,
- (2) The Court in which such action, suit, or proceeding was instituted, on motion for such indemnification or reimbursement, finds payment not unreasonable or inequitable after such hearing and notice thereof as it deems proper.

The foregoing right to indemnify shall include reimbursement of the amounts and expenses paid in settling any such action, suit, or proceeding including reasonable attorney's fees, before judgment, when settling before judgment appears to be in the interests of the organization, provided the same is found to be reasonable by the Board, and shall not be exclusive of other rights to which such officer, director or member of the Board Committee may be entitled to as a matter of law.

SECTION 3. DUALITY OF INTEREST.

- (a) Any voting member, Director, Officer, employee, agent, Board Committee member, professional, or any person with ex officio non-voting status in the Foundation who has an existing or potential interest in a contract or other financial transaction presented to the Board or any Board Committee thereof for deliberation, authorization, approval or ratification, or any of the above persons who reasonable believe that such an interest exists in another such person, shall make a prompt, full, and frank disclosure of the alleged interest to the Board or the Board Committee prior to its action on such contract or financial transaction. The interested party is required to disclose the nature and extent of their interest and any relevant and material facts, known to them, about the contract or transaction with might reasonably be construed to be adverse to the Foundation's interest.
- (b) Current officers of First Lutheran Church of Marshall, Minnesota shall be ineligible to serve as Voting Directors or Officers of the Foundation, until such time that their terms as officers of First Lutheran Church of Marshall, Minnesota have ended. Non-officer members of the Church Council of First Lutheran Church of Marshall, Minnesota are eligible to serve as Voting Directors on the Foundation Board, at the discretion of the Foundation Board, and subject to normal approval by the Foundation membership. Current officers of First Lutheran Church of Marshall, Minnesota are eligible to serve as ex officio, non-voting, advisory members of the Board, at the discretion of the Board, and without any necessary approval by the Foundation membership.
- (c) This Foundation is a non-profit tax-exempt corporation and is not a private Foundation. It shall comply with Articles of Incorporation and the Bylaws that require compliance with Federal and State law and regulations concerning its tax-exempt status.

SECTION 4. WAIVER OF NOTICE.

Whenever any notice is required to be given to any member or Director, Officer, employee, agent and/or professional of the Foundation under the provisions of the Bylaws, or under the provisions of the Articles of Incorporation, or under the provisions of the laws of the state of incorporation, a waiver thereof in writing signed by the person or person, entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

SECTION 5. INSURANCE.

The Board shall maintain adequate insurance to include malpractice and other liability insurance.

**ARTICLE VIII
AMENDMENTS AND REVIEW**

SECTION 1. AMENDMENTS TO BYLAWS.

The initial Bylaws shall be adopted by the initial incorporating Board of Directors. These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by a majority of the Foundation voting members present at any Annual or Special Meeting. Said changes may be recommended by Board resolution or by written recommendation of any five Foundation voting members as prescribed by law. In addition, the voting Foundation members, may as prescribed by law, authorize the Board to adopt Bylaw changes and/or new Bylaws.

SECTION 2. REVIEW.

The Articles of Incorporation, the Bylaws, the Board resolutions and policies shall be reviewed annually by the Board, or by a Special Committee organized for that purpose by the Board. If such review is conducted by a Special Committee, that Committee shall submit a report to the Board at least 30 days prior to the Annual Meeting for Board review, revision if necessary, and approval.

**ARTICLE IX
CONSTITUTION**

SECTION 1. NO CONSTITUTION.

There shall be no constitution.

STATE OF MINNESOTA)

) ss.

COUNTY OF LYON)

_____, a Director of said Foundation, being first duly sworn and under oath, hereby states that on the _____ day of _____, 2018, at the special meeting of the Membership of said Foundation, the Bylaws of said Foundation, as originally enacted on the fourth day of June, 1985, were duly amended as presented herein.

Subscribed and Sworn to before
me this ____ day of _____, 2018.

NOTARY PUBLIC