

BETHANY LUTHERAN CHURCH FOUNDATION
CHERRY HILLS VILLAGE, COLORADO

CONSTITUTION AND BYLAWS

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CONSTITUTION

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CONSTITUTION FOR
BETHANY LUTHERAN CHURCH FOUNDATION
CHERRY HILLS VILLAGE, COLORADO

PREAMBLE

In the Name of the Father, and of the Son, and of the Holy Spirit. Amen

We, members of Bethany Lutheran Church, Cherry Hills Village, Colorado, desiring to establish a permanent foundation to enable a further extension of stewardship, do hereby adopt this constitution and solemnly pledge ourselves to be governed by its provisions.

ARTICLE I
NAME AND INCORPORATION

- Section 1. The name of this foundation shall be Bethany Lutheran Church Foundation (hereafter called the Foundation).
- Section 2. This Foundation is incorporated as a nonprofit corporation in the state of Colorado.

ARTICLE II
PURPOSE OF THE FOUNDATION

- Section I. The Bethany Lutheran Church Foundation is being established to satisfy the requests of many people who desire to contribute to a "permanent remembrance." It has been organized as a separate nonprofit corporation and its finances will be segregated from all the other church finances, and it is administered by its own governing committee (the "Committee" or "Foundation Committee").
- Section 2. The purpose of the Foundation is to enhance the ministry of Bethany Lutheran Church by establishing stewardship opportunities additional to the general operation of Bethany Lutheran Church.
- Section 3. The Foundation will receive gifts through bequests in wills, charitable remainder and other trusts, charitable gift annuities, assignments of life insurance, transfers of property (cash, stocks, bonds, real estate), memorial gifts and other gifts from any individual or corporation or organization or from any other source in cash or in other property acceptable to it.
- Section 4. It is anticipated that the net assets of the Foundation, under ordinarily foreseeable circumstances, shall not be used for what are commonly known as "current expenses" or "budgeted expenditures" of Bethany

Lutheran Church. Rather, expenditures of the Foundation are envisioned as being for projects or undertakings that would seem likely to enrich, or uplift in some special way, the spiritual life of the Bethany Lutheran Church congregation; that would provide some worthy addition or improvement to the facilities of Bethany Lutheran Church that seem beyond achievement through other channels; or that would give needed assistance or support to a worthy individual, family or Christian enterprise.

Section 5. In support of, and consistent with, the purposes of the Foundation, the Foundation is authorized to expend, in each calendar year, up to 5% of the average fair market valuation of the Foundation's net assets (as defined under generally accepted accounting principles) for the eight calendar quarters ending as of September 30 of the preceding calendar year. No expenditure in excess of the amount set forth in the preceding sentence shall be made without authorization of a majority of the Bethany Lutheran Church congregation present and voting at a duly called meeting of the Foundation. Expenditures by the Foundation shall be made in accordance with the priorities established by the Foundation Committee in a continuing resolution.

Section 6. The existence of this Foundation with these objectives shall not be construed as depriving members of the Bethany Lutheran Church congregation of the privilege of allocating memorial funds received in the name of their loved ones to specific projects, as has been the practice heretofore. The Memorial Fund at Bethany Lutheran Church exists for gifts where the principal is to be spent and will be under the control of the Bethany Lutheran Church Council.

Section 7. Gifts received by the Foundation must be consistent with the mission of Bethany Lutheran Church and the purposes of the Foundation, and must be seen to have the economic potential for achieving their designated purpose. Restricted gifts will be administered in accordance with the donor's written wishes, subject to rules promulgated by the Foundation Committee for acceptance and administration of restricted gifts, and unrestricted gifts will be administered at the discretion of the Foundation Committee, as set forth herein. The existence of this Foundation does not prohibit the Foundation Committee from refusing to accept gifts that do not meet the objectives of this Foundation, do not have the economic potential for achieving their designated purposes or do not meet the Foundation Committee's rules regarding restricted gifts.

ARTICLE III
ADMINISTRATION OF THE FOUNDATION

- Section 1. The Foundation Committee shall be responsible for the direct administration and management of the Foundation, including the promotion of the Foundation, the investment of its assets, and the consideration of projects and undertakings for which expenditures may be made. Membership of the Committee shall consist of nine members of the congregation of Bethany Lutheran Church, except that no congregation members that are serving on the Bethany Lutheran Church Council are eligible to serve on the Committee. The senior pastor of Bethany Lutheran Church, or the designee of the senior pastor, will serve as a nonvoting member of the Committee.
- Section 2. The Foundation Committee shall have all powers and authority necessary to carry out the purposes of the Foundation.
- Section 3. All Foundation Committee members shall endeavor to maintain a high degree of communication with the Bethany Lutheran Church Council, other organizations within Bethany Lutheran Church, and members of the congregation to nurture the total life and mission of Bethany Lutheran Church and of the Foundation.
- Section 4. Notice of the existence of this Foundation and its purposes, together with encouragement of the members of this congregation to support it, is to appear in congregational publications (both written and electronic) and at congregational events as appropriate.
- Section 5. All gifts are received in prayerful gratitude to God, to the givers for their indication of love, commitment and loyalty to their Lord, and to the work of the church through this Foundation. All gifts will be acknowledged in a personal letter by the chairperson of the Committee and the senior pastor.
- Section 6. The names of all donors, testators and those honored by memorials shall be honored and perpetuated by recording in a Foundation Gifts book, unless they desire to remain anonymous. The name of the donor and family may be recited at special remembrance occasions.
- Section 7. It is preferred that gifts be unrestricted in character so that distributions can be made where the most need arises at the time. Where specific restrictions are included, such gifts will be administered as close to the intentions of the donor as possible under the Committee's rules regarding restricted gifts.

ARTICLE IV
RELATION TO BETHANY LUTHERAN CHURCH AND
EVANGELICAL LUTHERAN CHURCH IN AMERICA

- Section 1. The Bethany Lutheran Church congregation has the authority to control the purpose and administration of the Bethany Lutheran Church Foundation. This Foundation is and shall remain related to Bethany Lutheran Church or its successor.
- Section 2. While Bethany Lutheran Church and the Foundation have every intention of using the Foundation as set forth in this constitution, it is recognized that with the passage of time and changing circumstances, there may be a time when it is not feasible to utilize the Foundation as was originally intended. Should that situation develop, Bethany Lutheran Church or its successors in interest shall then be free to make such other use of the net assets of the Foundation as is consistent with the charitable and religious purposes of Bethany Lutheran Church, in accordance with provisions of the laws of the State of Colorado, and, with respect to restricted gifts, carrying out the donor's wishes.
- Section 3. If the Bethany Lutheran Church congregation (a) ceases to exist, (b) is removed from membership in the Evangelical Lutheran Church in America, (c) votes to transfer to another Lutheran church body, or (d) votes to become independent or to relate to a non-Lutheran church body, all as provided in Chapter 7 of the Bethany Lutheran Church constitution, as it may be amended from time to time (or in a corresponding provision of any future constitution), then the control of the Foundation and its assets shall be treated in the same manner as provided in Chapter 7 of the Bethany Lutheran Church constitution, as it may be amended from time to time (or in a corresponding provision of any future constitution), with respect to the title to the property of Bethany Lutheran Church. This Section 3 shall not be amended without direction or consent from the Rocky Mountain Synod or the Evangelical Lutheran Church in America.

ARTICLE V AMENDMENTS

Section 1. Amendments. This constitution may be amended as follows:

- a. Amendments to this constitution may be proposed by at least 25 voting members of the Bethany Lutheran Church congregation or by the Foundation Committee. Proposals must be filed in writing with the Foundation Committee not less than 60 days before formal consideration at a regular meeting or special meeting of the Foundation called for that purpose. The Foundation Committee shall notify members of the proposed amendments, with its recommendations, by placing a notice in such publications as the pastor of the congregation may periodically issue or by providing written notice to the voting members mailed not less than 10 days prior to the meeting.
- b. An amendment to an amendment properly before any meeting of the Foundation may be made by a majority vote of those members of the congregation present and voting, provided the proposed amendment does not alter the intent or increase the scope of the amendment issued in the official notice.
- c. No amendment is in order which conflicts with the law; or the charters, constitution or bylaws of the Evangelical Lutheran Church in America; or the constitution of the Rocky Mountain Synod; or the Articles of Incorporation of this Foundation. If such an amendment is adopted, even by unanimous vote, it is null and void.

Section 2. If in the judgment of the Executive Board of the Rocky Mountain Synod an amendment to the constitution or bylaws of the Evangelical Lutheran Church in America, to the Approved Constitution for Synods, or to the Approved Constitution for Congregations ought to entail related amendments of this constitution, receipt of an official communication to that effect from the secretary of the Synod enclosing a draft of the amendment recommended by Executive Board shall constitute proper proposal and notice thereof. Consideration of such an amendment shall then be in order at the next following meeting of the Foundation.

ARTICLE VI
TAX EXEMPTION

Section 1. Any gifts given to the Foundation, as well as all income derived therefrom, shall be used exclusively for religious, charitable and educational purposes in accordance with Section 501(c) (3) of the Internal Revenue code of 1986, as amended (the "Code"), or the corresponding provision of any future United States Internal Revenue Law. This Foundation is created and shall be operated exclusively for church purposes. No part of the income or property of this Foundation shall inure to the benefit of or be distributable to any member, director or officer of the church or to any other private person, except that the Foundation Committee is authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein. No part of the activities of the Foundation shall be the carrying on of propaganda or otherwise attempting to influence legislation and it shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of this document, the Foundation shall (a) not carry on any activities not permitted to be carried on by an entity exempt from Federal income tax under Section 501(c)(3) of the Code or the corresponding provision of any future United States Internal Revenue Law or (b) do any act which would render contributions to the Foundation nondeductible under Section 170(c)(2) of the Code or the corresponding provision of any future United States Internal Revenue Law.

Section 2. This Foundation may be dissolved in accordance with the laws of the State of Colorado. Upon dissolution of this Foundation, and after the payment of all liabilities, obligations, costs and expenses incurred by this Foundation, any remaining assets shall be distributed to such entities organized and operated exclusively for one or more purposes described in Section 170(c)(2) and 501(c)(3) of the Code or the corresponding provision of any future United States Internal Revenue Law.

BYLAWS OF
BETHANY LUTHERAN CHURCH FOUNDATION
CHERRY HILLS VILLAGE, COLORADO

ARTICLE I
AFFIRMATION OF PURPOSE

Bethany Lutheran Church Foundation has been formed to enhance the ministry of Bethany Lutheran Church by establishing stewardship opportunities additional to the general operation of Bethany Lutheran Church.

ARTICLE II
FOUNDATION MEETINGS

- Section 1. The annual meeting of the Foundation shall be held in November of each year on a selected and published date, the exact time and date to be chosen by the Committee, which shall normally be consistent with the time and date of the annual congregation meeting of Bethany Lutheran Church.
- Section 2. Special Foundation meetings (a) may be called by the senior pastor or the Committee, and (b) shall be called at the written request of fifty of the voting members of the Foundation, as defined in Section 4 of this Article II. The call for each special meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at that time.
- Section 3. Announcement of the time and place of the annual meeting or any special meeting of the Foundation shall be made at no less than two public services immediately preceding the meeting, said services to be at least one week apart, and in such publications as the pastor of the congregation may periodically issue or by written notice to the voting members mailed not less than 10 days prior to the meeting.
- Section 4. Confirmed members of Bethany Lutheran Church as set forth in its constitution (Section C8.02), who have received Holy Communion and made a contribution of record to the congregation within the current or preceding year shall constitute the voting members of the Foundation.
- Section 5. One hundred (100) voting members, including at least three Committee members, shall be present to constitute a quorum for the transaction of business. Once established, a quorum shall remain in effect throughout the meeting.

ARTICLE II
FOUNDATION MEETINGS
(continued)

- Section 6. Proxy and absentee voting shall not be permitted in the transaction of any business of the congregation. Cumulative voting shall not be allowed in any ballot election.
- Section 7. In case of emergency, the Committee may cancel a Foundation meeting by advising the membership through the news media, or by telephone, or by mail if time allows.

ARTICLE III
NOMINATIONS AND ELECTIONS

Section 1. Nominations.

- a. The nominating committee of Bethany Lutheran Church will also serve as the nominating committee of the Foundation. Members of the nominating committee are ineligible to serve on the Foundation Committee.
- b. The nominating committee shall present to the congregation at the annual Foundation meeting a slate of eligible nominees for the:
 - (1) Three (3) members to be elected to the Foundation Committee; and
 - (2) Nominees to fill the unexpired term of each vacancy occurring ad interim on the Foundation Committee.
- c. Only members eligible to vote at a congregational meeting may have their names placed in nomination by the nominating committee or from the floor, provided they have consented to serve if elected.
- d. The nominating committee shall send a copy of its slate of nominees to the Bethany Lutheran Church secretary no fewer than thirty (30) days prior to the annual meeting to be included in the official notice.
- e. The nominating committee shall recommend to the Bethany Lutheran Church Council for election, eligible nominees to serve until the next annual meeting of the Foundation should a vacancy occur in any of the elected positions filled by the congregation.

Section 2. Elections

- a. Three (3) members of the Committee shall be elected at each annual Foundation meeting for a term of three years, or until successors are elected and assume office.
- b. All voting shall be by ballot, except a voice vote may be taken when the number of candidates equal the number of positions to be filled.
- c. Election of members of the Committee shall be on one combined ballot; those candidates receiving the greatest number of votes shall be declared elected.
- d. Individuals elected at the annual meetings shall begin their term of office at the close of the annual meeting at which the elections were held.

ARTICLE IV
FOUNDATION COMMITTEE

- Section 1. The Committee shall consist of the senior pastor of Bethany Lutheran Church, or the designee of the senior pastor, and nine elected members. The senior pastor, or the designee of the senior pastor, is a nonvoting member of the Committee. Any voting member of Bethany Lutheran Church who has attained the age of 18 years may be elected. Committee members' tenure shall be so arranged that one-third of the terms expire annually, and members shall be eligible to serve no more than two full terms consecutively. Vacancies occurring ad interim shall be filled through appointment by the Bethany Lutheran Church Council, giving due consideration to the recommendations of the Committee. The appointees are to serve until the next annual meeting of the Foundation, at which time elections will be held to fill the vacancy. An elected member's place on the Committee shall be declared vacant at once if the member (1) ceases to be a voting member of the Bethany Lutheran Church congregation, or (2) is absent from two successive regular meetings of the Committee without excuse.
- Section 2. All elected members of the Committee shall be installed by the senior pastor according to the prescribed order of the Bethany Lutheran Church at the Sunday service following their election or as soon thereafter as convenient.
- Section 3. The Committee shall elect from its membership a chairperson and secretary. The treasurer for the Foundation may be treasurer of Bethany Lutheran Church or, at its discretion, the Committee may name some other person than the congregation's treasurer to be the treasurer or custodian of the funds of the Foundation.
- Section 4. The Committee will meet as necessary to conduct its business, but in no event less than four times a year. Meetings of the Committee will generally be open to members of the Bethany Lutheran Church congregation. A quorum for the transaction of business shall consist of a majority of the elected members of the Committee, and the senior pastor, or the designee of the senior pastor, except when the senior pastor, or the designee of the senior pastor, requests or consents to be absent and has given prior approval to an agenda of routine matters which shall be the only business of the meeting. No financial transaction of the Foundation can be made without a majority of the Committee members eligible to vote (5) voting in favor of the financial transaction.

ARTICLE IV
FOUNDATION COMMITTEE
(continued)

- Section 5. The Committee is hereby authorized to have the authority and exercise on behalf of the Bethany Lutheran Church Foundation the following:
- a. To take, have, hold, sell, exchange, rent, lease, transfer, convert, invest, reinvest, and in all other respects to handle and manage and control, the Foundation assets, or any part thereof, as the Committee members in their judgment and discretion shall deem wise and prudent;
 - b. To receive the income, profits, rents and proceeds of the Foundation and to collect and receipt for the same, and pay all administrative and necessary expenses in connection with it;
 - c. To retain any property in the form in which received, if deemed appropriate by the Committee; to convert and reconvert the property, or any part thereof, into other kinds and forms of property, real or personal or mixed; and to invest or reinvest the Foundation assets herein, or any thereof, as they shall deem wise and prudent, including in such savings accounts or certificates of deposit, common or preferred stocks, bonds, debentures, mortgages, notes or other securities, investments or property whether real or personal, which the Committee members in their absolute discretion may select or determine. Loans to Bethany Lutheran Church will be considered an appropriate investment by the Foundation;
 - d. To make, execute and deliver all instruments necessary or proper for the accomplishment of the purposes of the Bethany Lutheran Church Foundation, including deeds, bills of sale, transfers, leases, mortgages, assignments, conveyances, contracts, purchase agreements, waivers, releases, settlements and the like;
 - e. To maintain all the Foundation's funds and property separate, distinct and independent from the funds and property otherwise belonging to Bethany Lutheran Church; and
 - f. To establish, by continuing resolution, the spending process, the priorities for expenditure and the investment policies for the Foundation.
- Section 6. Expenditures by the Foundation shall be made as provided in Article II, Section 4 of the Foundation's constitution.
- Section 7. The Committee, at each annual meeting of the Foundation, shall render a full and complete account of the administration of the Foundation.

ARTICLE IV
FOUNDATION COMMITTEE
(continued)

- Section 8. The Committee shall not be liable for any losses which may be incurred upon investments of the Foundation except to the extent that such losses shall have been caused by bad faith or gross negligence of the Committee members. No member shall be personally liable as long as he or she acts in good faith and with ordinary prudence in discharging the duties of the Committee. Each Committee member shall be liable only for his or her own willful misconduct or omissions in bad faith. No Committee member shall be liable for the acts or omissions of any other Committee member, or of any accountant, agent, attorney or custodian selected with reasonable care.
- Section 9. The Committee shall establish written procedures as may be necessary for the conduct of its business. It shall adopt policies to guide the expenditures of the Foundation, which it may amend all within the stated purposes of this Foundation. The Committee may enact continuing resolutions, which continuing resolutions may not conflict with the constitution or bylaws of the Foundation. Continuing resolutions shall be enacted or amended by an affirmative vote of six (6) voting members of the Committee.
- Section 10. The Committee shall maintain accounts with such financial institutions as it may by resolution authorize. All checks and other documents transferring or expending any funds or assets in the Foundation shall be executed by the chairperson of the Committee or others as authorized by the Committee.
- Section 11. Any members of the Committee with check signing authority, at the expense of the Foundation, shall be covered by a corporate fidelity bond in a principal amount to be determined from time to time by the Committee.
- Section 12. The Committee may ask other members of the congregation to serve as advisory members or be a special subcommittee reporting to the Committee and may employ, at the expense of the Foundation, such professional counseling on investments and legal matters as it deems to be for the best interest of the Foundation.

ARTICLE IV
FOUNDATION COMMITTEE
(continued)

- Section 13. The Committee shall see to it that complete and accurate books of accounts are maintained and may employ such professional help as it deems necessary in this connection. The books shall be maintained using generally accepted accounting principles. The accounts of the Foundation shall be subject to an annual audit by a certified public accountant.
- Section 14. The secretary shall maintain complete and accurate minutes of all meetings of the Committee and supply a copy thereof to each Committee member.
- Section 15. The chairperson, or the Committee member designated by the chairperson, shall preside at all Committee meetings.
- Section 16. No member of the Committee shall engage in any self dealing or transactions with the Foundation in which the member of the Committee has direct or indirect financial interest and shall at all times refrain from any conduct in which his/her personal interests would conflict with the interests of the Foundation.
- Section 17. The Foundation Committee members shall not receive any compensation, but may be reimbursed for expenses reasonably incurred.
- Section 18. The Committee shall in no event be required to make physical segregation of the assets of the Foundation in order to conform to the directions of any individual donors, but may establish separate accounts in its accounting records.
- Section 19. The Committee is to inform the members of the congregation about the purposes of the Foundation, and may periodically arrange for members of the congregation to meet with professional counselors in the areas of charitable giving, wills, bequests, insurance, etc.
- Section 20. All new members of the Committee are to receive a copy of the Foundation constitution, bylaws and continuing resolutions to become acquainted with the function and purposes of the Foundation.

ARTICLE V
INDEMNIFICATION

- Section 1. The Foundation shall indemnify any person who was or is party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the congregation) by reason of the fact that such person is or was serving in the capacity of a member of the Foundation Committee against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such a person in connection with such action, suit or proceeding if the person acted in good faith, consistent with the constitution and bylaws of this Foundation, and in a manner the person reasonably believed to be in or not opposed to the best interest of the Foundation and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct unlawful.
- Section 2. Any indemnification shall be made by the Foundation only as authorized in the specific case upon a determination that indemnification is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 1 above. Such determination shall be made (1) by the Committee by a majority vote of members who were not parties to such action, suit proceeding, or (2) if such a majority is not obtainable, or even if obtainable and a majority of disinterested Committee members so directs, by independent legal counsel in a written opinion, or (3) by majority vote of a quorum at a Foundation meeting.
- Section 3. The indemnification provided by this article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, Foundation action, or otherwise; and, any procedure provided for by any of the foregoing as to action while the person was acting in an official capacity shall continue as to that person after said person has ceased to be in that capacity and shall inure to the benefit of heirs, executors and administrators of such a person.

ARTICLE VI
PARLIAMENTARY AUTHORITY

ROBERT'S RULES OF ORDER NEWLY REVISED shall be the parliamentary authority of this Foundation, whenever it is applicable and not inconsistent with the laws of the state; the Articles of Incorporation; the constitution, or the bylaws of the Evangelical Lutheran Church in America; the constitution of the Rocky Mountain Synod; the constitution or bylaws of this Foundation; or any special adopted rules of order.

ARTICLE VII
AMENDMENTS

Section 1. Amendments. These bylaws may be amended as follows:

- a. Amendments to the bylaws may be proposed by at least 25 voting members of the Bethany Lutheran Church congregation or by the Foundation Committee. Proposals must be filed in writing with the Foundation Committee not less than 60 days before formal consideration at a regular meeting or special meeting of the Foundation called for that purpose. The Foundation Committee shall notify members of the proposed amendments, with its recommendations, by placing a notice in such publications as the pastor of the congregation may periodically issue or by providing written notice to the voting members mailed not less than 10 days prior to the meeting.
- b. An amendment to an amendment properly before any meeting of the Foundation may be made by a majority vote of those members of the congregation present and voting, provided the proposed amendment does not alter the intent or increase the scope of the amendment issued in the official notice.
- c. No amendment is in order which conflicts with the law; or the charters, constitution or bylaws of the Evangelical Lutheran Church in America; or the constitution of the Rocky Mountain Synod; or the Articles of Incorporation of this Foundation; or the constitution of this Foundation. If such an amendment is adopted, even by unanimous vote, it is null and void.