

CONSTITUTION OF
HOLY CROSS LUTHERAN CHURCH
15885 Los Gatos-Almaden Road
Los Gatos, California 95032
Revised: January, 2010

1.0 NAME

HOLY CROSS LUTHERAN CHURCH OF LOS GATOS, IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, COUNTRY USA
TAX ID: 94-1625108

2.0 MISSION

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 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.

3.0 CONFESSIONAL STANDARD

The Lutheran Church—Missouri Synod requires that its member congregations accept the confessional standard of the Synod.

This congregation accepts without reservation:

- 3.1 The Scriptures of the Old and the New Testament as the written Word of God and the only rule and norm of faith and practice.
- 3.2 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.

Hymns, prayers, and liturgies will be used in the public service of the congregation and in all ministerial acts as conform to the confessional standard. Likewise, in all classes for instruction in Christian doctrine only such material will be used as conforms to this standard.

4.0 SYNODICAL MEMBERSHIP

This congregation shall be a member of The Lutheran Church-Missouri Synod and accepts the confessional standards as set forth in this constitution.

5.0 MEMBERSHIP

This congregation distinguishes between three types of congregational membership.

- 5.1 The membership of this congregation includes the following:
- 5.1.1 *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 of this congregation, including the children who have not yet been confirmed into communicant membership.
 - 5.1.2 *Communicant* members are those baptized members who have been instructed and are familiar with the contents of *Luther's Small Catechism*, have been confirmed in the Lutheran faith, and accept the confessional standard of Section 3.0 of this Constitution.
 - 5.1.3 *Voting* members are communicant members who have reached the age of 18 years.
- 5.2 The members of this congregation are received in the following manner:
- 5.2.1 Baptized members are received through the Sacrament of Holy Baptism or through the consent of one or both parents in the case of children who have been baptized in another Christian congregation.
 - 5.2.2 Adult members are received through the rite of confirmation and Sacrament of Holy Baptism as appropriate, through transfer from a sister congregation, or through profession of faith or reaffirmation of faith.
 - 5.2.3 The right to vote becomes effective at the next Voters Meeting for those 18 or older.
- 5.3 Members of this congregation shall conform their entire lives to the authority of God's Word and to that end shall make diligent use of the means of grace, exercise faithful stewardship of God's many gifts and talents, impart and accept fraternal admonition as the need of such admonition becomes apparent, and be readily available for service in the kingdom of Christ within and beyond the congregation. Membership in organizations whose principles and conduct conflict with the Word of God is prohibited.
- 5.4 Membership in this congregation shall be terminated as follows:
- 5.4.1 Membership shall be terminated by transfer to a sister congregation, by joining a congregation outside the fellowship of this congregation, by excommunication or self-exclusion, or by death.
 - 5.4.2 A communicant member who does not, for a period of one year, partake of Holy Communion, and does not appear to desire to participate in the life, stewardship, and worship activities of the congregation will be contacted and encouraged to participate. If, after contact, the communicant member does not actively participate, his/her name may be removed by self-exclusion from the communicant membership roster of the congregation but be retained on a responsibility list as one who is in special need of the congregation's prayer and concern.

5.4.3 Communicant members who conduct themselves in an un-Christian manner shall be admonished according to Matthew 18:15-20 and the congregation's stated and adopted guidelines. If they remain impenitent after proper admonition, they shall be excommunicated. Each case of excommunication shall be presented to the voters assembly for a decision. A two-thirds majority vote of the voters' assembly shall be required.

6.0 CALLED CHURCH WORKERS

The voters' assembly of this congregation shall have the exclusive right to call ordained ministers and commissioned ministers (teachers, DCE's etc) and this right shall not be delegated otherwise.

- 6.1 The pastoral office shall be conferred only upon pastors or candidates who profess and adhere to the confessional standard set forth in this constitution, who are qualified for the work of the ministry, and who have been endorsed by and are members of The Lutheran Church-Missouri Synod.
- 6.2 Only those commissioned ministers shall receive a call who adhere to the confessional standard set forth in this constitution, who are qualified for the work of the ministry to which they are called, and who have been endorsed by and are members of The Lutheran Church-Missouri Synod.
- 6.3 Called ordained or commissioned ministers may be removed from office in Christian and lawful order by a two-thirds majority 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, or the inability to perform those duties. Prior to any motion being presented to remove the Pastor from office, the Church Council/Board of Directors will meet with the Pastor, the District President and the Circuit Counselor to discuss the reason(s) for such action.
- 6.4 When a vacancy occurs in an office of an ordained or commissioned minister, 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, teacher, or other church worker. The Call process is defined in the bylaws.

7.0 AUTHORITY OF AND WITHIN THE CONGREGATION

The voters' assembly shall be the governing body of this congregation and shall be empowered to administer and manage all its affairs.

- 7.1 The establishment and conduct of all organizations within the congregation or related directly to the congregation shall be subject to the overall authority and general oversight of the voters' assembly.
- 7.2 All matters before the voters' assembly shall be decided by a simple majority vote unless otherwise specified by this constitution or bylaws. Matters of doctrine and conscience shall be decided only on the basis of the Word of God.

8.0 OFFICERS AND BOARDS

This congregation shall have the following officers and boards in addition to any which the congregation shall establish from time to time. Those officers identified by state law are the President, Secretary, and Treasurer. Those officers shall serve as legal representatives of the congregation.

- 8.1 The voters assembly shall elect a President, a 1st Vice-President, a 2nd Vice President, a Secretary, and a Treasurer, who shall be the officers of the congregation. The voters assembly may also elect additional voting members, as identified in the bylaws, who with the five officers and the designated Pastor shall comprise the Church Council/Board of Directors of the congregation. The designated pastor may be a non-voting, *ex-officio*, member of the board. The nomination and election of officers and board members shall be as specified in this constitution and accompanying bylaws.
- 8.2 The Church Council/Board of Directors shall have the authority to develop and implement policies, procedures, and ministries as defined in the bylaws to execute the vision and plans approved by the voters assembly.
- 8.3 The officers of the congregation shall serve as the executive committee of the Church Council/Board of Directors.
- 8.4 Duties of the President

He/She shall perform all duties incident to the office of President and other such duties as required by law, by the Articles of Incorporation, by the bylaws, or which may be prescribed from time to time by the Church Council/Board of Directors.

Except as otherwise expressly provided by law, by constitution and bylaws, he/she, in the name of the congregation shall execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Church Council/Board of Directors and shall have the power to sign official documents on behalf of the congregation or empower a designate to sign on the President's behalf.

8.5 Duties of the 1st Vice President

In the absence of the President, or in the event of his/her inability or refusal to act, the 1st Vice President shall perform all the duties of the President and when so acting shall have all the powers of, and be subject to the restrictions on, the President. The 1st Vice President shall have other powers and perform such other duties as may be required by law, by the Articles of Incorporation, by the bylaws, or by this constitution, or as may be prescribed by the Church Council/Board of Directors.

8.6 Duties of 2nd Vice President

In the absence of the President and 1st Vice President, or in the event of their inability or refusal to act, the 2nd Vice President shall perform all the duties of the

President, and when so acting shall have all the powers of, and be subject to all the restrictions on the President. The 2nd Vice President shall have other powers and perform such duties as may be required by law, by the Articles of Incorporation, by the bylaws, or by this constitution, or as may be prescribed by the Church Council/Board of Directors.

8.7 Duties of Secretary

In general, perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Articles of Incorporation, by the bylaws, or by this constitution, or which may be assigned to him/her from time to time by the Church Council/Board of Directors.

The Secretary shall be responsible for and keep at the office of the congregation, the original or a copy of the constitution, the bylaws and any amendments to date. The Secretary will keep accurate minutes of the meetings of the voters and of the Church Council for the permanent records of the congregation and will perform other duties in keeping with the office.

8.8 Duties of Treasurer

In general, perform all duties incident of the office of Treasurer and such other duties as may be required by law, by the Articles of Incorporation, by the bylaws, or by this constitution, or which may be assigned to him/her from time to time by the Church Council/Board of Directors.

The Treasurer is responsible for the gathering of financial information and for providing reports regarding that information to the Church Council/Board of Directors.

8.9 This congregation shall have such standing Boards/Committees as are necessary to assist the called workers, elected leaders, and members of the congregation in carrying out its mission and ministry. Those standing Boards/Committees shall be identified in the bylaws.

8.10 Any elected officer or board or committee member who fails to perform the duties of office or the responsibilities of confirmed membership may be removed from office by the voters assembly by a two-thirds majority ballot vote, in Christian and lawful order. Matthew 18 should be followed under such circumstances. Each individual Board/Committee may establish its guidelines regarding lack of attendance and involvement at meetings.

9.0 LIMITATIONS ON HOLDING OFFICE

Women who have reached the age of 18 may serve as officers and as members of boards and committees of this congregation which do not call upon them to carry out the specific functions of the pastoral office such as preaching in or serving as the leader of the public worship service, the public administration of the sacraments. Accordingly, a woman shall not serve as pastor of this congregation.

10.0 DIVISION

If at any time a division of the congregation should take place for any reason, the following principles will govern.

- 10.1 The property of the congregation and all benefits connected therewith shall remain with those communicant members who continue to adhere in confession and practice to the confessional standards set forth in this constitution.
- 10.2 In the event that the congregation dissolves, all property shall be disposed of by the final voters assembly 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 CNH, District of The Lutheran Church-Missouri Synod.

11.0 AMENDMENTS

This constitution may be amended in the following manner.

- 11.1 Amendments to the provisions of this constitution not identified in the following paragraph shall be submitted in writing at a meeting of the voters assembly and announced to the congregation by public posting and/or mail to all communicant members prior to the meeting at which the proposed amendment will be acted upon. A two-thirds affirmative vote of the voters present shall be required for adoption.
- 11.2 Amendments to Articles 3.0 shall not destroy their essential meaning. Amendments shall be submitted in writing at a meeting of the voters assembly and made public to the congregation by public posting and/or by mail to all communicant members. Notice of the discussion of such amendments shall be given prior to two voters assemblies when the proposed action will be discussed. Notice that action will be taken on proposed amendments shall be provided to all voting members prior to the meeting when a vote will be taken. The date of approval shall be referenced in any amendment adopted.
- 11.3 The revised constitution shall, as a condition of continued membership in The Lutheran Church-Missouri Synod, be submitted to the president of the district for review by the district's constitution committee and favorable action by the district's board of directors before being implemented by the congregation.