

NORTHEASTERN EVANGELICAL LUTHERAN CHURCH IN SOUTH AFRICA {NELCSA}

Congregational Code

for the

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CHAPTER ONE

Foundation

Section 1 *General*

In this Code, unless the context indicates otherwise, singular shall include plural and vice versa, and masculine shall include feminine and vice versa.

Section 2 *The Congregation*

- (1) The Church of Jesus Christ manifests itself in the congregation, on a local level. In the Church, the congregation, which is built up around Word and Sacrament, and the office which has been commissioned to preach the Gospel publicly and to administer the Sacraments, are interrelated, with Jesus Christ, its head, being the Lord of the Church.
- (2) In regard to this Code, the congregation is a community of Lutheran Christians, who meet regularly around Word and Sacrament. The office and ministries are performed in the congregation according to the confession and the laws of the Church.

The Basic Article of the Constitution states:

The Northeastern Evangelical Lutheran Church in South Africa is based on the Gospel of Jesus Christ, as revealed in the Holy Scriptures of the Old and New Testaments as the sole guide of faith, doctrine and life. Together with other Christian churches in the world it confesses its faith in the Triune God through the early Christian Creeds. As regards doctrine and life it subscribes to the Evangelical Lutheran Confessions, as set out in all the confessional writings of the Evangelical Lutheran Church, especially in the Augsburg Confession of 1530 and the Small Catechism of Dr Martin Luther.

- (3) The congregation is a member of NELCSA and acknowledges that the Church's Constitution and all laws, regulations and resolutions, passed in terms thereof, are binding upon it.

Section 3 *Commission and Sphere of Activity of the Congregation*

- (1) The sphere of activity of the congregation is determined by the commission which the congregation of Jesus Christ received from its Lord.
- (2) In accordance with this the congregation is charged with proclaiming the gospel, serving God's people and furthering and shaping congregational life through the co-operation of all its members, guided by the Pastor and Congregational Council. In particular it shall abide by the proper order in the proclamation of the gospel and in the administration of the Sacraments, promote Christian instruction, practice Christian love, advocate Church discipline and contribute to the accomplishment of the missionary task in this world.
- (3) The congregation participates in the life of the Church and, through representation in Circuit Conference and Church Synod, it participates in the management of the Church and subjects itself to its laws.
- (4) The obedient fulfilment of its commission is the right and duty of the congregation. In this obedience the congregation must arrange and

administer its affairs in its own responsibility and independently within the scope of the Church Laws.

- (5) In fulfilment of this commission all members of the congregation receive the service of the Church in Word and Sacrament, as well as in pastoral care and instruction.
- (6) All members of the congregation share in the responsibility of fulfilling this commission. For this reason, they all assist according to their gifts, faithfully attend worship services, conduct a Christian lifestyle, practise Christian neighbourly love, accept offices and duties within the congregation where possible and, subject to certain conditions, they have a right to vote and a right to be elected and the duty to raise the necessary resources.
- (7) In order to fulfil its commission (Section 2), the congregation supports one or more Pastor's post.
- (8) The decision to establish, partition and dissolve a Pastor's post is taken by the General Meeting. The resolution is subject to confirmation by Circuit Council and Church Council. (See Constitution, Section 21).
- (9) The congregation has the right to elect its Pastor.

CHAPTER TWO

MEMBERSHIP IN THE LEGAL SENSE

Section 4 Membership in the Local Congregation

- (1) Every Christian who has been baptised according to the Evangelical Lutheran confession and has joined the congregation according to Section 5, is a member of the congregation.
- (2) Any member of another Christian church who has been baptized in the name of the Triune God, who has been instructed in the Lutheran doctrine as stated in the Basic Article of the constitution of NELCSA and has expressed adherence thereto, may become a member of the congregation.
- (3) The clergy and full-time co-workers who have been called into the ministry are members of the congregations in which they serve.
- (4) Minors, who have been baptised, are part of the body of Christ and thus are part of the congregation. Full membership rights cannot, however, be bestowed on them until they have joined the congregation in accordance with Section 5. They are to be encouraged to participate in congregational life according to the opportunities available and within the scope of the legal requirements applicable to them.

Section 5 Membership in the Legal Sense

- (1) Membership must be applied for in writing. A prerequisite for membership is that the applicant confesses to the Lutheran doctrine and is 18 years old. Membership confers the right to vote and to be elected.
- (2) If the applicant was formerly a member of a congregation of the United Evangelical Lutheran Church in Southern Africa, a letter of transfer by the Pastor of that congregation is required.

- (3) Congregational Council shall decide on the application for membership.
- (4) If Congregational Council grants the application it must ensure that the applicant is enrolled as member, it must confirm his membership to him in writing and shall submit to him a copy of this Code and The Order of Church Life.
- (5) Congregational Council may reject the application, stating the reasons.
- (6) The applicant may appeal to Circuit Council against the rejection of his application. After hearing Congregational Council, the Circuit Council shall make a final decision on the matter.
- (7) New members shall be introduced to the congregation in the manner customary in the congregation.

Section 6 *Termination of Membership*

- (1) Membership in a congregation and membership in the legal sense is terminated:
 - (a) by a member requesting a transfer to another Lutheran congregation. In this case a letter of transfer shall be issued upon the member's request.
 - (b) by a written declaration to terminate the membership, which shall be addressed to Congregational Council.
- (2) Congregational Council may declare the membership to have been terminated and shall announce the termination according to local custom if a member remains untraceable for 2 years.

The person concerned may within one month of the decision having been conveyed to him, object thereto to Congregational Council, who is obliged to hear him. If the objection is not resolved, the person may, within a further month, appeal to the Circuit Council, whose decision shall be final. The objection does not suspend the termination.
- (3) All rights and duties of a member of the congregation cease upon the termination of membership. Rights and duties arising from legal transactions remain unaffected.

Section 7 *Loss of Rights by a Member*

- (1) The rights of a member of the congregation to vote or to be elected may be withdrawn.
- (2) The procedure for withdrawing the right to vote and to be elected is regulated by the Rules for the Election of Congregational Council Members.

CHAPTER THREE

BOUNDARIES, NAME, SEAT AND INSTITUTIONS OF THE CONGREGATION

Section 8 *Local Boundaries of the Congregation*

The boundaries of the congregation are determined by its traditional boundaries or by the decision of the Church Council of the NELCSA. (See Constitution Section 21).

Section 9 *Name and Seat of the Congregation*

- (1) The name of the Congregation is: _____
- (2) The seat of the Congregation is: _____

Section 10 *Organs of the Congregation*

The organs of the congregation are the General Meeting and the Congregational Council.

CHAPTER FOUR

THE GENERAL MEETING

Section 11 *Unity*

The General Meeting embodies the unity within the congregation. Together with Congregational Council it carries the primary responsibility for life and service in the congregation.

Section 12 *Composition of the General Meeting*

- (1) Membership of the General Meeting is made up of persons who are members by virtue of Section 4(3) and members whose membership is based on Section 5 insofar as they have not forfeited participation in the General Meeting in terms of Section 6.
- (2) Members of Church Council and of Circuit Council may participate in the deliberations of the General Meeting in an advisory capacity.
- (3) Congregational Council may invite guests to take part in the General Meeting. They participate in the deliberations without the right to vote.

Section 13 *Sessions of the General Meeting*

- (1) The General Meeting shall be convened at least once a year for an ordinary session.

- (2) An extraordinary session of the General Meeting shall be convened if at least ___ of the members of the congregation with voting rights (Section 12(1)) request this in writing, stating reasons, or if Congregational Council deems it expedient to convene such a meeting.
- (3) The application in terms of Section 13 (2) shall be addressed to Congregational Council. It must contain the agenda proposed by the applicants. Congregational Council may supplement the agenda with items of its own choice.
- (4) The General Meeting may adopt standing rules of procedure for the conduct of meetings.

Section 14 *Convening of Meetings*

- (1) General Meetings of the congregation shall be convened by Congregational Council.
- (2) Congregational Council determines the time and date of the meeting.
- (3) As a rule, Notice of Meeting shall be conveyed to the members of the congregation according to local custom at least 2 weeks prior to the date fixed for the meeting. It shall also be announced during worship services.
- (4) The Notice of Meeting shall include the agenda.

Section 15 *Agenda*

- (1) The agenda for ordinary General Meetings shall include:
 - (a) discussion and approval of the minutes of the previous General Meeting as well as minutes of any previous extraordinary meetings;
 - (b) discussion and adoption of the annual report of Congregational Council;
 - (c) discussion and adoption of the annual report of the treasurer and the annual accounts;
 - (d) discussion and acceptance of the budget for the ensuing financial year;
 - (e) the election of Congregational Councillors, members of Synod and of the auditors;
 - (f) general;
 - (g) all matters reserved for resolution by the General Meeting in terms of the provisions of this Code.

Section 16 *Chairship of the General Meeting*

- (1) The chair of Congregational Council shall preside over the General Meeting. The meeting shall be opened with scripture reading and prayer and concluded with prayer.
- (2) The secretary (Section 32(1)) shall be responsible for the keeping of minutes of the General Meeting.

Section 17 *Quorum*

- (1) A minimum of ____ (NUMBER to be inserted by congregation after decision at General Meeting.) voting members present shall constitute a quorum, provided that the meeting was properly convened in terms of Section 14.
- (2) If a quorum of an otherwise properly called meeting cannot be established due to insufficient participation, the Chair shall give notice, within two weeks, of another meeting in terms of section 14, without change of agenda, at which those members present shall constitute a quorum irrespective of the provisions of section 17 (1) of the Congregational Code subject to 17 (3) below. This fact shall be recorded in the minutes of the meeting.
- (3) No fewer than three voting members shall ever constitute a quorum.

Section 18 *Decision making*

Unless otherwise provided herein, resolutions of the General Meeting are adopted by simple majority. In the event of the votes being equal the motion shall be deemed to have been defeated.

Section 19 *Voting and Elections*

- (1) Voting shall be either by ordinary or by secret ballot. Voting shall be by secret ballot if Congregational Council demands this, or if the meeting so decides.
- (2) Pastors are elected in terms of Section 47, Congregational Council members in terms of the Rules for the Election of Congregational Council Members and Synod members in terms of the Rules for the Election of Synod Members. The elections shall take place by secret ballot. The election of a Pastor may be by ordinary ballot if only one nomination has been received and no objection is raised.
- (3) Committee members are, in general, elected by a show of hands unless the General Meeting decides otherwise.

CHAPTER FIVE

CONGREGATIONAL COUNCIL

Section 20 *General*

- (1) The congregation shall have a Congregational Council.
- (2) Congregational Council leads the congregation. It shall watch over the fulfilment of the congregation's obligations and protection of its rights.
- (3) The Pastor and Congregational Council are responsible for one another in the service of the congregation and owe one another their support. Therefore, the Pastor shall also discuss matters pertaining to the spiritual office which are of importance to the congregation with Congregational Council, to the extent that his office permits this.

- (4) Requests and suggestions by the congregation which promote Church life shall be examined by Congregational Council and shall be taken into account as far as possible.
- (5) Members of Congregational Council who violate their duties intentionally or through gross negligence, shall be liable to compensate the congregation for any loss it may suffer as a result thereof.

Section 21 *Composition*

- (1) Congregational Council comprises:
 - (a) Pastors, Pastors coll. and Deacons called to service in the congregation. Interns shall participate in Congregational Council meetings without a right to vote;
 - (b) Members elected or appointed as Congregational Councillors in accordance with the Rules for the Election of Congregational Council Members under Section 19 (3) of the Constitution.
- (2) Persons who have the right to vote, who are at least 18 years old and who earnestly strive to do justice to the requirements of Section 25 are eligible for election.
- (3) Spouses, parents, siblings and children may not serve on Congregational Council simultaneously. Circuit Council may, upon application by Congregational Council, make exceptions to this rule.
- (4) Co-workers who are in full-time employment of the congregation should not be Congregational Councillors.
- (5) Care must be taken in the election that the diversity within the congregation is adequately represented within the Congregational Council.
- (6) The following persons do not have a right to vote:
 - (a) members whose rights have been temporarily or permanently denied;
 - (b) members who are not admitted to partake in Holy Communion;
 - (c) members whose right to vote has been rescinded;
 - (d) members who have lost their right to vote in terms of Section 7;
 - (e) members who have been declared incapable of managing their own affairs or who have been placed under provisional guardianship or under trusteeship.
- (7) Additional provisions are contained in the Rules for the Election of Congregational Council Members.

Section 22 *Number of Congregational Councillors*

The General Meeting determines the number of Congregational Councillors.

Section 23 *Period of Office and Election*

- (1) Congregational councillors are elected for a term of office of ____ years. A term of office shall not exceed four years.

- (2) After two consecutive terms a Congregational Councillor shall not serve again for at least one term. If a term of office is 2 years, then three consecutive terms may be served. Circuit Council may permit exceptions on application by Congregational Council.

Section 24 *Induction and Pledge*

Congregational councillors are inducted into office during the main worship service in accordance with the Church Agenda. They commit themselves by pledge and handshake to conduct their office properly.

Section 25 *Official Duties of Congregational Councillors*

- (1) The Congregational Councillor, being bound by Holy Scriptures and by the confession of the NELCSA, is obliged to conduct his office conscientiously in accordance with the Church Laws.
- (2) The Congregational Councillor shall set an example for the congregation by leading a Christian life-style and by his participation in Church activities. He shall be active in the congregation to the best of his ability and capabilities.
- (3) The Congregational Councillor is bound to secrecy on all issues which come to his knowledge during his term of office as well as after the termination thereof, which by their nature or by decree are required to be kept secret.
- (4) Congregational councillors and other office bearers perform their duties on an honorary basis and no compensation, whether monetary or in kind, shall be paid to them for the services rendered by them in the performance of their duties, except as reasonable compensation for expenses incurred in the execution of such duties.

Section 26 *Retirement from Office*

- (1) A Congregational Councillor shall vacate his office if:
 - (a) he is no longer a member of the congregation, (Section 6);
 - (b) he has been deprived of his eligibility as a Congregational Councillor in accordance with the requirements of the Rules for the Election of Congregational Council Members;
 - (c) he has been declared incapable of managing his own affairs, has been placed under provisional guardianship or under trusteeship because of a mental affliction;
 - (d) he resigns from his office.
- (2) The fact that he has vacated his office shall be confirmed by Congregational Council.

Section 27 *Exclusion from Office*

- (1) Congregational Council may expel a Congregational Councillor from his office if he:

- (a) acts in a manner that is contrary to the Confession;
- (b) causes the congregation offence by his life-style or other conduct;
- (c) culpably and grossly neglects the duties of his office.

The decision may only be taken if the person concerned has been given a hearing by Congregational Council and if pastoral endeavours have failed.

- (2) The person concerned may within one month of the decision having been announced object thereto to Circuit Council, which is obliged to hear him. The decision of Circuit Council shall be final. The objection does not suspend the expulsion.
- (3) A Congregational Councillor who has been expelled loses eligibility for the duration of one term of office.

Section 28 *Co-opting Members by Congregational Council*

- (1) In the event of a Congregational Councillor being expelled in accordance with Section 26 or 27 or where a councillor has died, Congregational Council shall be entitled to augment itself to fill the vacancy. This augmentation shall remain effective until a by-election for Congregational Councillors is held at the next General Meeting.
- (2) Congregational Councillors who are co-opted in accordance with Section 28 (1) shall be inducted and committed in terms of the provisions of Section 24. In exceptional cases the induction may take place during a meeting of the Congregational Council.

Duties of Congregational Council

Section 29 *General Duties*

- (1) Congregational Council shall, within the framework of the Church Laws, particularly:
 - (a) deliberate on the form of worship services and the liturgical acts and shall determine the times of the services, in which due consideration is to be given to the mother tongue of the members of the congregation and the language of the community within which it is situated;
 - (b) assist by ensuring that the correct teachings are upheld, the Church Laws and Christian customs are maintained, Church life is promoted effectively and the sanctity of Sundays and Church festivals is observed;
 - (c) advise and decide on measures for the protection and promotion of religious instruction, specifically in Sunday school, religious instruction classes and Confirmation classes;
 - (d) decide on the utilisation of church buildings, specifically on the letting of church premises for special events;
 - (e) assist in filling the Pastor's post;
 - (f) participate in the allocation of tasks in congregations with several Pastors' posts;

- (g) strengthen the awareness in the congregation of the diaconic and missionary duties, support work groups and institutions in particular to further Christian charity and the diaconic work of the congregation, activities directed at men's, women's and youth work, parent and family work, Church social work, Church music, evangelisation, ecumenical work, missionary work and work in the diaspora;
 - (h) ensure that disputes in the congregation are settled promptly and in a brotherly manner;
 - (i) recruit co-workers for services in the congregation and Church;
 - (j) endeavour to further the tasks of the Church by means of donations and voluntary services.
- (2) Congregational Council has the duty to discuss important matters concerning the Church, especially to deliberate on how fundamental Church Orders affecting the congregation can be implemented and new institutions can be created, promoted or terminated.

Section 30 *Management of Assets*

- (1) It is the duty of Congregational Council to manage and administer the assets and finances of the congregation.
- (2) In all actions and decisions regarding the management and administration of assets and finances, it must be borne in mind that they are to serve the commission of the congregation [Section 2] and that they are essentially determined thereby.

Offices and Duties of Congregational Council

Section 31 *Chair of Congregational Council*

Congregational Council shall annually elect a chair and a deputy from among its members. The person who receives the majority of votes of the members of Congregational Council shall be elected. In the event of the votes being equal, lots shall be drawn to decide the election. A change of chairship occurs, if during a period of office, such is requested by two-thirds of the members of Congregational Council or if the chair resigns.

Section 32 *Office of the Secretary*

- (1) Congregational Council shall elect a secretary and, if necessary, a deputy from among its members to attend to the correspondence of the congregation. The elections are held in accordance with Section 31.
- (2) All correspondence shall be conducted in the name of the congregation.
- (3) The secretary is responsible for the minutes of the meetings of Congregational Council. Subject to the provisions of Section 25(3) Congregational Council may appoint another person to assist the secretary.

Section 33 *Office of the Treasurer*

- (1) Congregational Council shall elect a treasurer and, if necessary, a deputy from among its members to control budgeting, bookkeeping and accounting requirements of the congregation. The elections are held in accordance with Section 31.
- (2) The treasurer shall ensure that the budget is adhered to, that all income is collected in full and timeously, and that the expenses which are due, are paid from approved resources.
- (3) The treasurer is responsible for establishing and keeping the necessary books of account.

Section 34 *Status of the Secretary and the Treasurer*

The secretary and the treasurer are subject to the directions of Congregational Council. The immediate supervision rests with the chair.

Section 35 *Management*

- (1) The chair is responsible for ensuring that Congregational Council attends to the tasks assigned to it.
- (2) The chair manages congregational affairs. He is responsible for ensuring that Church Laws are observed. He shall ensure that the decisions of Congregational Council and of the General Meeting are implemented.
- (3) Simple matters of a routine management nature are conducted by the chair at his own discretion.

Section 36 *Convening Meetings of Congregational Council*

- (1) As a rule, the chair convenes the Congregational Council meetings once a month or as often as circumstances require.
- (2) A meeting of Congregational Council shall be convened without delay if one-third of its members or the Pastor request this in writing stating the issues to be considered, or if Church Council or Circuit Council directs that a meeting shall be convened.
- (3) Notice of meeting, including the agenda, shall be given at least three days prior to the scheduled meeting.

Section 37 *Preparation of and Conduct of Congregational Council Meetings*

- (1) The chair prepares the meetings and chairs them. He determines the agenda, which may be amended during the meeting. Opportunity for discussion of matters not appearing on the agenda shall be given.
- (2) Meetings of Congregational Council shall be opened with devotion and concluded with prayer. Deliberations shall, if possible, lead to consensus.

Section 38 *Participation in Meetings of Congregational Council*

- (1) Congregational Council meetings are not open to the public.

- (2) For purposes of consultation Congregational Council may invite, without the right to vote:
 - (a) Church co-workers on matters concerning their sphere of responsibility;
 - (b) persons whose input may appear to be useful.
- (3) The Bishop or the Dean or a member of Church Council or of Circuit Council, delegated thereto by either of them, may participate in the deliberations, without voting rights. They have the right to address the meeting and to propose motions.

Section 39 *Quorum*

- (1) At Congregational Council meetings a quorum shall be present if its members have been duly notified of the meeting, and if more than half of its members are in attendance and are entitled to vote.
- (2) If a quorum cannot be established due to insufficient participation, the chair shall arrange for another meeting, at which those members present shall constitute a quorum irrespective of the provisions of Section 39(1). This fact shall be recorded in the minutes of the meeting.

Section 40 *Resolutions*

- (1) Resolutions shall be passed by a simple majority of votes. In the event of the votes being equal the motion shall be deemed to have been defeated.
- (2) Voting shall take place by a show of hands, unless, in exceptional cases, a ballot has been decided upon, or unless the chair or the Pastor demand this.
- (3) If a member, who is excluded from voting by virtue of Section 41, is present, the resolution is invalid, except if it is clear that the member's presence had no influence upon the results.

Section 41 *Exclusion from Deliberations and Voting*

Members of Congregational Council shall not participate in deliberations or vote on matters in which they themselves or their immediate family have an interest, or where they may receive a direct advantage or disadvantage as a result of the decision, or if a natural or legal person whom they represent by operation of law or under power of attorney could receive a direct advantage or disadvantage, or if it affects them personally. Church undertakings and other Church institutions shall not be deemed to be juristic persons for purposes of this Section. The question of whether or not a matter falls within the ambit of this clause shall be decided by Congregational Council in the absence of the member concerned.

Section 42 *Committees*

- (1) Congregational Council may appoint committees for certain matters or areas of responsibility, into which members of the congregation who are not members of Congregational Council, may be appointed.
- (2) As a rule, a member of Congregational Council, designated thereto by Congregational Council, shall chair such committee meetings.

Congregational Council may authorise the committee to elect a chair from among its members.

Section 43 *Special Responsibilities*

Congregational Council may entrust particular tasks to individual members of Congregational Council.

Section 44 *Minutes of Meetings*

Minutes of meetings of Congregational Council are to be kept. The exact wording of the resolutions shall be recorded. The entire minutes shall, as far as possible, be confirmed and signed at the next meeting of Congregational Council.

Section 45 *Suspension of Implementation of Resolutions*

- (1) The chair is obliged to suspend the implementation of resolutions passed by Congregational Council, which in his opinion or in the opinion of the Pastor:
 - (a) are not in accordance with the Confession of the Church;
 - (b) are in conflict with the rights and authority of the spiritual office;
 - (c) seriously threaten Church life;
 - (d) are in conflict with Church Laws and Regulations.
- (2) Resolutions, the implementation of which have been suspended, shall be submitted to Circuit Council forthwith.

CHAPTER SIX

Filling of Pastor's Post and the Pastor

Section 46 *Filling the Post*

- (1) Church Council determines when a Pastor's post in a congregation becomes vacant.
- (2) Church Council decides whether or not the Pastor's post in a congregation shall again be filled.
- (3) The Church Council shall inform the Congregational Council of its decision whether or not to place a Pastor in terms of section 25 of the Constitution.
- (4) In the event that the Church Council does not exercise its right to place a pastor in terms of section 25 of the constitution, then the following procedure shall apply:
 - a) The Church Council shall inform all pastors of UELCSA that the post is to be filled again and that interested pastors should announce their interest within a period of 4 (four) weeks. The Bishop then informs the congregation of the names of interested Pastors and possible additional suggestions by Church Council.

b) The congregation shall then decide which of the following methods it chooses and informs the Bishop accordingly. The post shall be filled either by

- i) calling a Pastor,
- ii) or by advertising the post
- iii) or by requesting Church Council to present a Pastor to the congregation.

All this is done in consultation with and with the consent of Church Council.

c) In case the congregation chooses to call a Pastor, it shall inform the Bishop of the names of possible candidates.

d) In case the congregation chooses to advertise the post; Church Council shall take the necessary steps to prepare the advertisement. Church Council shall relay responses to the advertisement to the congregation. Church Council may make further suggestions, and these must be included in the election.

e) In case the congregation chooses to be presented with a candidate, Church Council shall present a candidate, provided that a suitable candidate is available.

Section 47 *Election of Pastor*

- (1) The Pastor is elected by the General Meeting of the congregation in terms of Section 19(2).
- (2) The election shall be prepared and carried out by Congregational Council without being influenced by and in the absence of the officiating Pastor.
- (3) The Dean or his deputy or the Bishop or a member of Circuit Council or Church Council respectively, appointed thereto by them, may be requested to chair the preliminary discussions and to carry out the election.
- (4) At the General Meeting the Pastor is elected by secret ballot with an absolute majority of members present and voting. If more than one candidate stands for election, the candidate with the fewest votes shall be eliminated after each ballot. In cases where the number of votes cast for each candidate is equal, the ballot shall be repeated.
- (5) The election shall be confirmed by Church Council.
- (6) Church Council shall refuse to confirm the election if:
 - (a) mistakes which could have had an effect on the result were made during the election proceedings;
 - (b) the elected person was not eligible.
- (7) If Church Council refuses to confirm an election, it shall notify the congregation to hold a new election within a period of 6 months. This period may be extended on request.
- (8) If the congregation does not hold an election within this period, Church Council may appoint a Pastor from the list of applicants.

- (9) If the congregation has not held an election within 12 months after advertising the post, Church Council shall appoint a Pastor.
- (10) After a successful election or appointment Church Council shall call the Pastor to the new post.
- (11) The elected or appointed Pastor should take up the appointment within 3 months of the election or appointment.
- (12) If the elected or appointed Pastor had already had a permanent post within NELCSA, he shall take up the rights and obligations in the new Pastor's post, either upon relinquishing his current post or alternatively on the date of his induction.
- (13) The Dean shall induct the appointed Pastor into his new post during a worship service. The certificate of appointment shall be handed out during the service.

Section 48 *The Pastor*

- (1) The Pastor, as the incumbent of the spiritual office, bears the professional responsibility of service in Word and Sacrament, and accordingly he bears responsibility for the spiritual leadership of the congregation. He shall proclaim the Word of God contained in the Holy Scriptures of the Old and New Testaments according to the confession of the Evangelical Lutheran Church, administer the Sacraments according to the Laws of the Church and shall set an example to the congregation by leading a Christian life.
- (2) His duties consist in the first instance in conducting the public worship services according to the Rules of the Church, the occasional duties, pastoral care and religious instruction of the youth. Chapter 4 of the Law on pastors applies.
- (3) Subject to his commitment to his ordination vows within the framework of Church Laws, the Pastor is independent in the performance of his ministry.
- (4) The conditions of service of the Pastor are regulated by the Law on Pastors.

CHAPTER SEVEN

Visitation

Section 49 *Responsibility of the Church*

- (1) The Church realises its responsibility for the proclamation of the Word of God according to the scriptures and for the proper administration of the Sacraments, as well as the complete service within the congregation through the visitation.
- (2) The purpose of the visitation is to strengthen the congregations and in particular their Pastors and the others who have been called to service in the congregations through encouragement, recognition, consolation, admonition, instruction and examination, and also to promote and strengthen the fellowship of the congregations amongst one another.
- (3) The visitation in each congregation shall take place once in six years. A congregation or its Pastor may request a visitation.

- (4) In terms of Section 44(2) of the Constitution of NELCSA the visitation is one of the special tasks entrusted to the Bishop. As a rule, the Dean visits the congregations of his Circuit in terms of Section 55(2) of the Constitution of NELCSA.
- (5) The Circuit Council participates in the visitation. The Dean may entrust its members with carrying out certain of the duties of the visitation. Additional persons may be co-opted.
- (6) In the congregation of the Dean, the Bishop or an ordained member of Church Council appointed by him conducts the visitation.

Section 50 *Preparation for the Visitation*

- (1) The Congregational Council is informed of the planned visitation at least 6 weeks before its commencement. The Visitor determines the program for the visitation in conjunction with the Congregational Council.
- (2) Before the visitation takes place the Congregational Council shall conduct a meeting, to discuss the visitation and the planned events and to provide the Visitor with an interim report on the status of the Church life within the Congregation. It shall complete the questionnaire for the visitation and submit it at least 2 weeks before the visitation.
- (3) Together with the announcement of the visitation, the Visitor may, in terms of Section 50(1), request that the Pastor submits a sermon to him, as well as a short summary of his confirmation class. The Visitor may prescribe the text for the sermon from the pericopes of the day of the visitation.
- (4) The congregation is to be reminded of the visitation during each service on both Sundays prior to the visitation and is to be invited to all the services and meetings or events.
- (5) The length and the implementation of the details of the visitation are determined by local circumstances.

Section 51 *Execution of the Visitation*

- (1) The Visitor participates in the service during which the Pastor of the congregation preaches.
- (2) Where there is more than one Pastor, Deacon or Pastor coll. in a congregation, it shall be agreed with the Dean who will lead the various services. The Visitor shall address the congregation during the service or during a congregational meeting.
- (3) The day of the visitation provides a special opportunity for the Visitor to celebrate Holy Communion with the congregation.
- (4) The Visitor shall convince himself of the status of the catechistic teaching, Church music, singing in the services and the work of the choirs.
- (5) The Visitor shall devote his attention to the Church groups, the diaconic work within the congregation, as well as the external mission and possible mission groups within the congregation.
- (6) During the course of the visitation, the Visitor shall conduct in depth discussions with each Pastor, Deacon and Pastor coll., concerning their overall performance, with special attention being given to their preaching.

- (7) The Pastor shall be given the opportunity to discuss the things that give him personal pleasure and grief and possible difficulties within the congregation.
- (8) The Visitor, or a member of the Circuit Council, alternatively the Church Council, appointed thereto by him, shall examine:
 - (a) the church buildings and facilities of the congregation;
 - (b) the registry of the congregation. Particular attention is to be given to the minute book of the Congregational Council and the Church records.
- (9) The accounting methods are to be examined.
- (10) During a meeting with the Congregational Council the Visitor shall discuss matters concerning Church life and the discharge of office of all who have been called to serve in the congregation. The Visitor shall chair this meeting.
- (11) The Visitor shall discuss, in an appropriate manner, the discharge of office by the Pastor with the Congregational Council, and the discharge of their office as councillors with the Pastor. This may take place in the absence of the persons involved. Thereafter a joint discussion shall take place to clear up matters that were raised and to put things right.
- (12) As a rule, the visitation shall be concluded with a meeting between the congregation and the Visitor. During this meeting the Visitor shall, as he deems advisable, discuss special tasks and difficulties of the congregation; he shall advise it of the situation within the Church and shall point out to the congregation its responsibility towards the Church as a whole.
- (13) The congregation being visited, is responsible for the local costs. All other costs are borne by the Circuit or the Church.

Section 52 *Visitation Report*

- (1) Within one month of the visitation, the Visitor shall submit a written report on the visitation to Circuit Council. After its adoption by Circuit Council the report must be forwarded to the Church Council for noting.
- (2) The report shall be forwarded to Congregational Council within a further two weeks. Congregational Council shall record this report in the minute book.
- (3) Based on this report the Visitor may address the congregation, and this address may also be read out during divine service.
- (4) As a rule, a follow-up meeting within 6 months of the visitation shall take place between the Visitor and the Congregational Council to determine what has transpired regarding the proposals and suggestions made at the visitation.

CHAPTER EIGHT

Co-workers in the Congregation

Section 53 *Co-workers and their Duties*

- (1) The talents and capabilities available within the congregation should unfold themselves in such a manner that the congregation can largely fulfil its tasks through voluntary and honorary co-operation of members of the congregation.
- (2) The congregation may appoint full-time or part-time co-workers, if necessary.
- (3) Co-workers shall mainly perform duties in proclaiming the gospel, in worship and in Christian instruction, in bringing together members of the congregation and its youth, in missionary and diaconic work and in administration.
- (4) The chair of Congregational Council shall call a meeting of the co-workers at least once a year to promote orderly co-operation. Members of Congregational Council are ex officio members of such meeting.

Section 54 *Pledge and Induction*

- (1) Both full-time and part-time co-workers shall pledge that they will conscientiously perform their duties and abide by Church Laws, either in their contract of employment or verbally. The fact that this pledge has been given, shall be recorded in the minute book of Congregational Council.
- (2) As a rule, co-workers are inducted into their post during a worship service.
- (3) All co-workers, including honorary workers, shall maintain secrecy against outsiders on confidential matters with which they become acquainted during the course of their duty in the congregation.

Section 55 *Co-workers with Employee Status*

- (1) Conditions of service shall be agreed to with co-workers who are employed full-time or part-time by the congregation. The relevant laws of the country shall be observed.
- (2) Posts for co-workers with employee status shall be incorporated in the budget of the congregation.

Section 56 *Lay Preachers*

- (1) Congregation members may take over duties of public preaching during worship services as Lay Preachers. They are appointed by Church Council. Lay Preachers shall, in the first instance, do duty in their own congregation, but by invitation and after consultation with the local Pastor, they may perform duties in other congregations. They must be suitable for this service and be eligible to become Congregational Councillors.
- (2) Congregation members may be appointed to this post by Church Council if a corresponding proposal is made by the local Pastor and the

Congregational Council. Prior to the appointment the Lay Preacher shall complete a training course under the supervision of Church Council. Lay Preachers are obliged to participate in in-service training courses.

- (3) Lay Preachers are inducted into their post by the Dean or a Pastor appointed by him to do so. The Bishop shall issue a certificate of appointment to the Lay Preacher.
- (4) The appointment is valid for 4 years, but may be extended.
- (5) The appointment shall end:
 - (a) when the appointed term has expired. The appointment may be extended on application by Congregational Council and Pastor. A further induction is not necessary.
 - (b) when the Lay Preacher declines the appointment and returns his certificate of appointment.
 - (c) when the appointment is withdrawn for good reasons. In this case Congregational Council and the Lay Preacher shall be heard.
- (6) The local Pastor supervises the Lay Preacher.
- (7) Lay Preachers perform their services without remuneration. If they perform a service in another congregation than their own, that congregation shall reimburse them for their expenses according to the guidelines of the Church.
- (8) Lay Preachers may use the pulpit and altar for their service.
- (9) With their consent Lay Preachers may be commissioned by Church Council to lead a congregation and/or to administer the Sacraments.
- (10) Lay Preachers may be invited to attend Pastors' Conventions.
- (11) Lay Preachers are bound by the constitution and laws of the Church and Rules of the Congregations in which they perform their services.

Section 57 *Lay Readers*

- (1) Lay Readers are congregation members who have been appointed to conduct services by making use of prepared sermons, or who conduct portions of the liturgy. They must be suitable for this service and be eligible to become Congregational Councillors.
- (2) The appointment is made by Congregational Council. It must be preceded by a period of training, for which Congregational Council is responsible.
- (3) Lay Readers are inducted into office by the local Pastor, and are subject to his supervision.
- (4) If Lay Readers occasionally perform duties in another congregation than their own, no additional induction in that congregation is necessary. In this case they will merely be introduced by a member of the local Congregational Council.
- (5) The appointment is valid for 4 years.
- (6) The appointment may be cancelled with immediate effect if the local Congregational Council; so, decides. No reasons for its decision need be given. The local Pastor, who may propose the cancellation of the appointment, must in any event be requested to give his opinion.

- (7) Lay Readers may decline the appointment. Congregational Council must be informed.
- (8) The appointment may be renewed on request. In this case it is not necessary to repeat the induction.
- (9) For the duration of their appointment, Lay Readers may perform their service in any congregation of the Church, if the respective local Pastors agree.
- (10) Lay Readers may use the pulpit and altar for their service.
- (11) Lay Readers are bound by the constitution and laws of the Church and Rules of the Congregations in which they perform their services.
- (12) Lay Readers perform their services without remuneration. If they perform a service in another congregation than their own, that congregation shall reimburse them for their expenses according to the guidelines of the Church.
- (13) Lay Readers may alter prepared sermons where expressions or examples are used which may not be applicable or which appear difficult to be understood. Any other changes should first be discussed with the local Pastor.
- (14) Lay Readers are obliged to participate in in-service training courses from time to time.

Section 57 A Lay Administrators of Sacraments

- (1) Congregation members may take over the administration of Holy Communion during worship services as Lay Administrators of Sacraments. They are appointed by Church Council. Lay Administrators of Sacraments shall, in the first instance, do duty in their own Congregation, but by invitation and after consultation with the local Pastor, they may perform duties in other congregations. They must be suitable for this service and be eligible to become Congregational Councillors.
- (1) Congregation members may be appointed to this post by Church Council if a corresponding proposal is made by the local Pastor and the Congregational Council. Prior to the appointment the Lay Administrator of Sacraments shall complete a training course under the supervision of Church Council.
- (3) Lay Administrators of Sacraments are inducted into their post by the Dean or a Pastor appointed by him to do so. The Bishop shall issue a certificate of appointment to the Lay Administrator of Sacraments.
- (4) The appointment is valid for 4 years, but may be extended.
- (5) The appointment shall end:
 - (a) when the appointed term has expired. The appointment may be extended on application by Congregational Council and Pastor. A further induction is not necessary.

- (b) when the Lay Administrator of Sacraments declines the appointment and returns his certificate of appointment.
 - (c) when the appointment is withdrawn for good reasons. In this case Congregational Council and the Lay Administrator of Sacraments shall be heard.
- (6) The local Pastor supervises the Lay Administrator of Sacraments.
 - (7) Lay Administrators of Sacraments perform their services without remuneration. If they perform a service in another Congregation than their own, that Congregation shall reimburse them for their expenses according to the guidelines of the Church.
 - (8) Lay Administrators of Sacraments are bound by the constitution and laws of the Church and Rules of the Congregations in which they perform their services.

CHAPTER NINE

LEGAL CAPACITY OF THE CONGREGATION

Section 58 *The Congregation as Legal Entity*

- (1) The congregation is a legal entity, whose existence is independent of the change in its membership and it may acquire rights, enter into obligations and may institute and/or defend any court action in its own name.
- (2) In consultation with Church Council in accordance with Section 20(7) of the Constitution, but without limiting the powers aforesaid by the following enumeration, the congregation may, in order to fulfil its tasks and responsibilities:
 - (a) purchase, rent, lease, borrow, acquire and hold movable and immovable property of any kind as well as sell, alienate, encumber or otherwise dispose of, bind itself as security of mortgage or otherwise to let, lease and hire it out;
 - (b) acquire movable and immovable property donated or bequeathed to it and to accept other bestowals in cash or in kind;
 - (c) undertake all other legal acts, and to conduct legal business transactions.
- (3) The legal domicile of the congregation is _____
- (4) The liability of members for obligations of the congregation is limited to the payment of unpaid contributions and to the settlement of other existing obligations entered into with the congregation.
- (5) The congregation shall avail itself of its powers to acquire rights and incur liabilities only to the extent that it serves to fulfil its tasks.

Section 59 *Management of Assets*

- (1) Congregational Council shall elect at least three persons from among its own ranks (trustees), who shall sign all documents and certificates, as well as undertake all legal actions contemplated in Section 58. Two persons should always sign.
- (2) The Trustees have signing powers for the duration of their terms of office.
- (3) As a rule, the chair and his deputy together with the treasurer have signing powers for the duration of their term of office. In exceptional cases Congregational Council may authorise one or more persons, who are not members of Congregational Council, to perform certain legal acts.
- (4) Immovable property shall be registered in the name of:
Die jeweiligen Treuhänder für die _____ (name of the congregation), or
The Trustees for the time being of the _____ (name of the congregation), or
Die Trustees vir tyd en wyl vir die _____ (name of the congregation).
- (5) Dispositions of whatever nature in respect of such immovable property shall be legally effective if signed by the relevant Trustees. Proof of appointment of such Trustees shall be rendered on behalf of Congregational Council by means of a certificate signed by a member who is not himself a Trustee. Furthermore, Section 20(2) of the Constitution of NELCSA shall be observed.
- (6) Verbal declarations in Court, before public bodies or in other instances shall be legally binding only if they are made by the chair and another member of Congregational Council after prior approval by Congregational Council.

Section 60 *Property Disputes*

If, a restructuring of the congregation in terms of Section 21(1) of the Constitution of NELCSA has taken place and the rights and obligations in regard to existing church buildings, institutions and establishments are to be regulated, or if existing assets are to be re-regulated, then provided the parties concerned come to an amicable agreement and Church Council agrees, such agreement shall become binding. Failing this the decision shall rest with Church Council.

CHAPTER TEN

FINANCIAL ADMINISTRATION

Section 61 *Income*

- (1) The income of the congregation shall comprise members' contributions, offerings and other bestowals by members of the congregation or third parties.
- (2) The congregation shall maintain one or more banking accounts, through which all its income and expenditure shall be conducted.
- (3) Income and property of the congregation shall not be distributed in any way to its members or office bearers.

Section 62 *Budget and Audits*

- (1) All income and expenditure of the congregation shall be assessed for one year at a time and shall be included in the budget. The budget shall be drawn up by the treasurer and accepted by Congregational Council. It shall be submitted to the General Meeting for adoption.
- (2) Congregational Council may disburse unexpected expenditure that had not been included in the budget up to a maximum amount determined by the General Meeting from time to time.
- (3) Annual financial reporting
 - (a) The financial year coincides with the calendar year.
 - (b) The General Meeting shall appoint at least one person who is not a member of Congregational Council, or a registered auditor to review the annual accounts.
 - (c) Annual Financial Statements will consist as a minimum:
 - Balance Sheet – Inclusive of fixed assets and investments, liabilities, cash balances
 - Income and Expenditure
 - Fund and Reserve Statements if applicable.
 - (d) Annual Financial Statements shall be submitted to NELCSA on an annual basis within 6 months after financial yearend.

Section 63 *Requirements by SARS*

- (1) All activities of the congregation, or substantially the whole thereof shall be carried out for the benefit of persons within the Republic of South Africa.
- (2) At least three of the persons referred to in Section 59(1) and (2) shall accept fiduciary responsibility for the congregation. They shall not be connected persons in relation to each other, and no single person directly or indirectly shall control the decision-making powers of the congregation.
- (3) The funds of the congregation shall be used solely for the objects for which they were established, or they shall be invested with a financial institution as defined in Section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990) or in securities listed on a stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985).
- (4) The congregation shall not carry on any business undertaking or trading activity unless specifically permitted in terms of Section 30(3)(b)(iv) of the Income Tax Act 1962 (Act No. 58 of 1962).
- (5) A copy of all amendments to the Congregational Code shall be submitted to the Commissioner for South African Revenue Services.
- (6) Each congregation shall submit the required annual returns of income tax together with the relevant supporting documents.
- (7) No remuneration shall be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the services rendered and has not and shall not economically benefit any person in a manner which is not consistent with the objects of the Church or its congregations.
- (8) All donations made to the congregation shall be irrevocable. They may not be subject to any conditions which could enable the donor to derive a direct or indirect benefit from the application of such donation.

- (9) In the event of the dissolution of a congregation any assets remaining after the dissolution shall be transferred to the NELCSA being an organisation with similar objects as this congregation.
- (10) The congregation shall register as a Public Benefit Organisation [PBO] in terms of Section 30(3) of the Income Tax Act 1962 (Act No. 58 of 1962) and shall comply with this section and Section 10(1) (cN) of the Income Tax Act 1962 (Act No. 58 of 1962).

CHAPTER ELEVEN

DISSOLUTION

Section 64 *Decision to Dissolves and Liquidation*

- (1) The dissolution of the congregation shall be decided by an extraordinary General Meeting convened for this purpose. The resolution shall be effective only if at least two-thirds of its members in a legal sense as referred to in Section 5, are present and of these at least two-thirds have voted in favour of the dissolution. Section 20(1) of the Constitution of the NELCSA shall apply. Should the quorum required above not be realised, section 17(2) and 17(3) apply. A two-thirds majority in favour of the dissolution will be required at this second extraordinary General Meeting.
- (2) Once the dissolution of the congregation has been resolved, the General Meeting shall issue directives concerning the liquidation of the assets of the congregation and shall appoint a committee to carry out the liquidation. The committee does this in accordance with the above-mentioned directives and in accordance with the relevant provisions of the laws of the country. Any assets remaining after the liquidation shall be transferred to NELCSA.
- (3) Should NELCSA also be dissolved or liquidated, then and in that event only, any assets remaining after liquidation shall be transferred to another Church, which is also a Non-Profit Organisation, having similar objectives as NELCSA. The extraordinary General Meeting, as referred to in Section 64(1), shall in terms of this provision decide to which organization the remaining assets will be transferred.

CHAPTER TWELVE

FINAL PROVISIONS

Section 65 *Additional Regulations*

- (1) The congregation may frame additional regulations for its area of jurisdiction (Section 26 of the Constitution NELCSA).
- (2) These additional regulations shall, however, not alter the numerical sequence of the Sections of this Code.

Section 66 *Amendments*

- (1) A Church Law, in terms of Section 61(1) of the Constitution of NELCSA is required to amend this Code. Such amendments shall be binding on the congregations.
- (2) Amendments of additional regulations in terms of Section 65 shall be by way of a resolution of the General Meeting with a two-thirds majority vote of eligible members present at the meeting.

Section 67 *Commencement Date*

- (1) This Code shall come into effect on _____ in accordance with the resolution of the General Meeting on _____.
- (2) The previous Rules of the Congregation _____ dated _____ and any amendments thereto, are repealed with effect from the same day.
- (3) The existing membership of the congregation remains unaffected by the coming into force of this Code