Legal Requirements for WA

Nonprofit corporations are not required to have members; however most churches incorporate as nonprofit corporations with members. Therefore, the following requirements assume that a church is incorporating with members. If a church chooses to incorporate without members then some of the requirements in this document will not be applicable.

Helpful links

Washington Nonprofit Corporation Act (Revised Code of Washington (RCW) Chapter 24.03):
https://app.leg.wa.gov/RCW/default.aspx?cite=24.03A

State of Washington Nonprofit Corporations page:
http://www.sos.wa.gov/corps/NonprofitCorporations.aspx

Federal Employer Identification Number (EIN)

To obtain an EIN go to the IRS website page for Employer ID Number (EINs):
http://www.irs.gov/businesses/small/article/0,,id=98350,00.html

For other tax information and requirements go to the Tax Information for Churches and Religious Organizations page: https://www.irs.gov/charities-non-profits/churches-religious-organizations

Areas Covered by State Law (this list is not meant to be exhaustive)

- Purpose and Powers
- Articles of Incorporation – how to file, amend and restate
- Bylaws – how to adopt and amend
- Members – qualifications, rights, removal, meetings, voting and quorum
- Board of Directors – number, term, election, vacancies, removal, meetings, voting and quorum
- Officers – required officers, duties, term, election, removal
- Books and Records
- Incorporators
- Merger
- Consolidation
- Dissolution, both voluntary and involuntary

Reasons for Incorporating

- In order for a church to have employees, bank accounts, own things (buildings, chairs, sound systems, etc.), or have tax-exempt status, the church must incorporate. A church does this by filing Articles of Incorporation with their state.

Reasons for Bylaws

- The state requires that either the board of directors adopt bylaws.
- The Bylaws may contain anything to regular and manage the corporation as long as they do not conflict with the law or the Articles of Incorporation. The state sees the Articles as primary over the Bylaws. If there is any conflict between the Articles and Bylaws, the Articles will win.
- There is great latitude in what may be included in the bylaws (and what may be left out). However, it is important to note that in most areas, if you leave it out of the bylaws, then state law has something to govern your church in that area.

Articles of Incorporation

All corporations must file Articles of Incorporation with their state. The state provides a form that must be filled out and instructions on how to file this form with the state along with the appropriate fee.

Areas Covered by the Articles (this list is not meant to be exhaustive)

- Name
- Period/Tenure (Perpetual is an option here)
- Purpose
- Distribution of Assets upon Dissolution
- Registered Agent Name, Mailing and Physical Address, phone and email
    - The Registered Agent is a person who can be reached, in person, in order to be served, if necessary.
- Initial Board of Directors – names and address

Distribution of Assets upon Dissolution

In order to obtain 501(c)(3) status from the IRS, the purpose and dissolution must meet the IRS guidelines for a 501(c)(3).

Recommend Sample wording:

In the event of the dissolution of this church, the property of this church will be distributed to the organization currently known as Northwest Conservative Baptist Association, a 501(c)(3)tax exempt, nonprofit Conservative Baptist agency. If at the time of dissolution this agency is no longer in existence, the Elders shall redirect the assets to one or more 501(c)(3)tax exempt, nonprofit organizations sharing common doctrinal beliefs and goals.

Amendments & Restatements of the Articles

Detailed instructions are set in state law for amending and restating the Articles.

Annual Reports

An annual report is required to be filed with the Secretary of State. Failure to do so can result in administrative dissolution.

Organizational Meeting

After the Articles of Incorporation have been filed with the state, the initial Board of Directors must call an organizational meeting to complete the corporation. The meeting is called by a majority of the incorporations or directors.

The initial Board of Directors must adopt bylaws at the organizational meeting.

The initial Board of Directors must elect officers at the organizational meeting.

Bylaws

Initial bylaws shall be adopted by the board of directors.

Members

State law speaks to the election or appointment, qualification, removal, and rights of members. In many cases the bylaws may override state law, but if the bylaws make no provision in an area, then the law is the guideline.

A membership may be terminated regardless of the procedure set forth in the articles or bylaws if the corporation has had no contact with the member for at least 3 years AND either the member fails to respond within 90 days to a request from the corporation to update the member's contact info (which includes a statement that failure to respond could result in termination of membership) OR pervious request for update sent to member by first-class forwardable mail, with postage prepaid, is returned as undeliverable.

Member Meetings

State law speaks to the types of meetings, notice, voting, and quorum. In many cases the bylaws may override state law, but if the bylaws make no provision in an area, then the law is the guideline.

If the corporation has members, there must be an annual meetings of members.

Notice of Meetings

Generally, all states require fair and reasonable notice of regular and special meetings to all members entitled to vote at a meeting. Some states require written notice, others allow for oral notice, but regardless of the means, ***notice must be given to all member entitled to vote at the meeting***. Different states have specifics for what is considered fair and reasonable. Note that notice is to be delivered on certain timelines, and each state has guidelines for when a notice can be considered delivered based on the method of delivery.

Notice in all states must include the place, date and time of the meeting. Additionally, for special meetings, the purpose or purposes of the meeting must be included.

Notice for annual and regular meetings may be done by way of a schedule of meetings rather than providing notice for each meeting.

Notice must be written unless bylaws allow for oral notice. Notice may be communicated in person or by delivery. Notice must be delivered not less than 10 days and not more than 60 days before the date of the meeting. Timeline for notice being considered delivered: Oral, when communicated; electronic, when given; mailed, 5 days after deposit with USPS.

Directors

State law speaks to the number, election or appointment, terms, resignation, removal, vacancies, and meetings of directors. In many cases the bylaws may override state law, but if the bylaws make no provision in an area, then the law is the guideline.

The affairs of a corporation are managed by the board of directors. The bylaws may specify a different title for directors.

The board of directors must have at least 1 director. The bylaws may either fix or prescribe a manner for determining the minimum number greater than 1. If incorporated or restated after 1/1/2022 terms of director terms cannot exceed 5 years. If incorporated before 2022 with longer terms, those terms continue as is until amended to be 5 years or less.

Officers

Required Officers of the corporation are President, Secretary, and Treasurer. An individual may hold more than one office, except that the office of President and Secretary cannot be held by the same person. The bylaws may specify different titles for officers.

The board of directors or bylaws may designate other officers.

Books and Records

State law speaks to the types of records a corporation must keep, as well as where they must keep then, for how long, and members' rights to inspect these records. In most of these things, the bylaws cannot change anything.

Each corporation shall keep permanently at any locations: minutes of member meetings, and board meetings; record of all actions taken by member and board by unanimous written consent; record of all actions taken on behalf of the corporation by a committee of the board; articles of incorporation or restated articles and all amendments to them currently in effect; bylaw or restated bylaws and all amendments to them currently in effect; all communications to members generally within the past 6 years, including financial statements; a list of the names and addresses of its current directors and officers; most recent annual report; a list of names and addresses of all members in alphabetical order by class. A member of the corporation may inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the above records upon written notice at least 5 days prior to the date of inspection.

Amendments

State law speaks to the procedures for amending bylaws. Bylaws may override state law, but if the bylaws make no provision for amendments, then the law is the guideline.

Sale, Lease, Exchange, Mortgage, or Other Disposition of Assets

A sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, the property and assets of a corporation with members entitled to vote must follow procedures set in law.

Loans to directors and officers

Loans cannot be made to directors and officers. *All directors who vote or assent to make a loan to a director or officers and any officers participating in such action are jointly liable to the corporation for the amount of the loan until repayment.*