

Church-Planting Legal Foundations

Following the assessment process (see the Assessment Process Drawer), and once you are approved to become a Church-Planter/Church Plant in the Allegheny District of the Evangelical Free Church of America and as you begin to build your initial team, you should begin to take the following steps to assure that you have the proper initial Legal Foundations for your ministry established: (NOTE – while we believe we have provided much of what is needed to begin, a great resource call be found at www.startchurch.com)

STEPS IN BUILDING YOUR LEGAL FOUNDATIONS:

- 1. Recruit Initial Officers** – In order to file your initial legal foundations paperwork, you will need to recruit some initial officers who will help you file. These may be initial core-group members, or they may be advisory council members who are “on loan” from other churches. Typically, the planter will serve as the chairman. You should also recruit a treasurer and a financial secretary and perhaps a “board secretary. These officers will serve until such time as you have official membership and the membership has affirmed these or new officers into these position (or however your constitution and by-laws make provision for the selection of officers).
- 2. Incorporation** – this is a fairly simple and straight-forward process that will really take very little of your time if you use the supplied template. At this point, you do not need to have your constitution and by-laws complete (that will follow), nor will you need to obtain the services of a lawyer. (NOTE: prior to filing your Articles of Incorporation, it is a very good idea to check for the availability of the name selected for your church. Often times, you can verify a name for your church’s Articles by simply adding the name of your town or city – i.e Crossroads Community Church of Edinboro, Inc. You can reserve the name with the state for a cost; however, if you quickly file your Articles, this is often an unnecessary step). You will need District Approval, 3 officers, and an address. The federal government is concerned that church articles of incorporation contain a dissolution clause so that no individual nor group of individuals can personally profit. Your articles of incorporation should contain a dissolution clause wherein assets are directed to the Allegheny District of the EFCA. In most cases at this stage the Planter will serve as the “Chairman”. You will need to minimumally appoint a treasurer, and one other officer (perhaps a financial secretary) in order to sign much of the paperwork in the Legal Foundations Steps. (Go to Appendices 2a for the template and further instruction & to obtain Docket File Page).
- 3. Obtain your Federal Employer Identification Number (FEIN)** – you will need this to open your bank account whether or not you yet have any paid employees. This can be done online and get your FEIN about ten minutes at the following web address: https://sa.www4.irs.gov/sa_vign/newformSS4.do

- 4. Obtain Federal Tax Exempt Status** – The easiest procedure for EFCA Church-Plants is to file to be included under group exemption granted by the IRS to the EFCA. To come under our group exemption, once you receive your FEIN (sometimes referred to as an EIN), call the number into the EFCA administration office (Laura Brice). The national EFCA office needs this number because once a year we submit a report to the IRS listing all the new churches authorized to use our 501(c)(3) status along with their respective FEIN. You must obtain an EIN from the IRS and report that number to us for the IRS to recognize your church as coming under our tax exempt status.

Contact Laura Brice at the EFCA office (800-745-2202). She will walk you through the process for becoming tax exempt 501(c)(3) under the EFCA's group exemption. This is one of the ways our national EFCA office serves our church plants.

A church plant needs to get 501(c)(3) status in order for their donors to receive tax deductions in the giving of their tithes and offerings. Go to this link for the forms to be complete and sent the EFCA National Office:

<http://www.efca.org/church-planting/reachnational-church-planting/church-planting-resources/legal-foundations/obtain-fed> (see appendices 4a)

- 5. Write Your Constitution and By-laws** – Planters often spend too much time researching and writing what they think will be the perfect document to protect them from problems. There is no such document. Remember we are dealing with fallen people, even if we have been regenerated by the Holy Spirit, we are still living in our flesh. Another mistake is to borrow a constitution from someone else... a mother church, a neighboring church, someone online. While it is okay to cut and paste, make sure that they fit your situation.

The principle is to keep the constitution simple. There are only ten things you need in a constitution. They are:

- Name
- Statement of faith
- Standing
- Purpose
- Membership
- Property rights
- Government
- Officers
- Bylaws
- Amendments

The basic constitution should not change that much. Where you make most of your changes is in the bylaws and amendments section. The by-laws should be a dynamic document that is constantly changing as your church grows. But even in this area, start out simple. *(see appendices 5a and following for samples)*

6. **Secure State Sales Tax Exemption** – As a purchaser of goods and services, you are obligated to pay state sales and/or use taxes unless you complete the state’s sales or use tax exemption paperwork. Each state is different. Ohio does not issue a tax exempt number for churches, however each church must submit at least a Blanket Exemption form to each seller from who they wish to be exempted. *(see appendices 6a and following for forms and State-specific procedures.)*

7. **Credentialing and Ordination** – A booklet entitled Steps to Credentialing can be downloaded here: <http://www.efca.org/church-planting/reachnational-church-planting/church-planting-resources/legal-foundations/credential>

Once you are approved as an Allegheny District Church-Planter, our District Secretary will send you an initial information and application packet. It is entirely possible to have your 1st step license wrapped-up within the first 6 months. Typically, there is a three year window from launch to complete the ordination process and receive your ordination. It is important to at least get your license for housing and tax purposes as this gives more credence to your vocation. Some places, like hospitals may require some documentation in order to issue a “clergy card”. (see appendices 7a and following)

Appendices 2a

What does it mean to Incorporate?

To incorporate is to become a corporation. There are many benefits to becoming a corporation because the church now acts as a legal entity. All land and property can be purchased in the name of the corporation. Another benefit is that many states grant Sales and Use Tax Exemption to churches.

To create a corporation one must create “Articles of Incorporation.” In simple terms, the meaning to the phrase “Articles of Incorporation” is “a declaration of objective statements designed to form a sovereign entity.” These statements describe the type of entity that you are creating, as well as how, where and when that entity will exist. When the church is incorporated, the Board can act in the corporation’s name in order to make purchases, establish credit and own real estate. These are just a few of the benefits that incorporating can bring to your church. The Articles of Incorporation are the statements that create the new corporation. Every state has its own set of laws governing these articles. The law will demand that a minimum set of articles be included before it can accept the creation of a new entity. This manual will go a little further and also discuss some of the additional articles that the IRS will look for in order to approve the application to make it a 501(c)(3). Just because you incorporate as a non-profit organization does not mean that you are automatically a 501(c)(3) organization or exempt from Sales and Use taxes.

Step 1. Checking on the Availability of a Name

Even though it is not required, it is recommended that you check on the availability of the name that you want to use for your church, prior to submitting Articles of Incorporation to the Department of State's office. Corporations form every day and you do not want to prepare Articles of Incorporation only to be denied because your name was deceptively similar to another corporation. You want the name that you choose to be reflective of the purpose of your church. You can perform a preliminary search for name availability by calling the Department of State's Office and asking the representative to check on the availability of the name you want for your church. It is always best to come prepared with a list of names just in case the one you want most is not available. Once you determine which name is available, you will need to reserve it.

Step 2. Reserving a Name for Your Church

It is important to reserve a name for your church so that you don't accidentally try to submit your Articles of Incorporation using a name that already exists. It will only delay your application process. To reserve a name all you have to do is write a [one paragraph letter](#) to the Department of State requesting that the name you want for your corporation to be reserved. There is no form that the state provides. You need to make sure that the letter is signed and sent by one of the [incorporators](#). There is a filing fee made payable to the Department of State. Send the letter to:

PA Department of State
Corporation Bureau
Commonwealth Avenue & North Street
308 North Office Building
Harrisburg, PA 17120
717-787-1057

<http://www.dos.state.pa.us/corps/cwp/view.asp?a=1093&Q=431182&corpsNav=>

OHIO - Go to this site for the best information
<http://www.sos.state.oh.us/SOS/businessServices.aspx>

NEW YORK - <http://www.dos.state.ny.us/corps/>

Appendices 2b

Microfilm Number _____ Filed with the Department of State on _____
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Secretary of the Commonwealth

ARTICLES OF INCORPORATION OF NONPROFIT CORPORATION

Organization's Name, Inc.

(Pennsylvania Non-Profit Corporation)

THE UNDERSIGNED, each with the capacity to contract, hereby executes and acknowledges these Articles of Incorporation for the purpose of forming a corporation not for profit under and by virtue of the laws of the State of Pennsylvania in compliance with the requirements of 15 Pa.C.S.ss5306 (relating to articles of incorporation), the undersigned, desiring to incorporate a nonprofit corporation, hereby state(s) that:

ARTICLE 1. NAME AND ADDRESS

The name of this corporation shall be **Organization's Name**, Inc.

The physical address of this corporation is **Organization's Address**.

ARTICLE 2. PURPOSE

This is a religious corporation. The specific purpose for which the corporation is initially organized is to **insert the purpose of your church here** and to also engage in activities which are necessary, suitable or convenient for the accomplishment of that purpose, or which are incidental thereto or connected therewith which are consistent with Section 501(c)(3) of the Internal Revenue Code. This corporation is organized and operated exclusively for religious purposes within the meaning of Section 501(c)(3), Internal Revenue Code.

Notwithstanding any other provision of these Articles, this corporation will not carry on any other activities not permitted to be carried on by (i) a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue law, or (ii) a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 or any other corresponding provision of any future United States Internal Revenue law. The purposes for which this corporation is organized are exclusively charitable, scientific, literary and educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue law.

ARTICLE 3. NONSTOCK CORPORATION

The corporation is organized upon a non-stock basis.

ARTICLE 4. QUALIFICATION OF MEMBERS AND MANNER OF ADMISSION

This corporation will not have members. **(Define your membership process here)**

ARTICLE 5. TERM

The date of commencement of corporate existence shall be when these Articles have been filed with the Department of State and approved by it and the respective filing fee has been paid; the term for which the corporation is to exist shall be perpetual. This corporation is organized and operated exclusively for religious purposes within the meaning of Section 501(c)(3), Internal Revenue Code. In the event of dissolution of the corporation, no part of the corporation's earnings or assets shall inure to the benefit of any of its members; the residual assets of the corporation shall be distributed to one or more organizations which themselves are exempt as organizations described in Sections 501(c)(3) and 170(c)(2) of the Internal Revenue code of 1986, or corresponding sections of any prior or future law, or to the federal, state or local government for exclusive public purpose. In this instance, any earnings, assets or property shall be distributed to the Allegheny District of the Evangelical Free Church of America upon dissolution.

ARTICLE 6. NON PROFIT ORGANIZATION

The corporation does not contemplate pecuniary gain or profit, incidental or otherwise. No part of the net earning of the corporation shall ever inure to the benefit of, or be distributable to its members, directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article 2. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation and the corporation 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 these Articles, the corporation shall not carry on any other activities not permitted to be carried on: (a) by a corporation exempt from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue law or: (b) by a corporation, contributions to which are deductible under Section 170(c) of the Internal Revenue Code of 1986 or the corresponding provisions of any future United States Internal Revenue law.

ARTICLE 7. INITIAL REGISTERED OFFICE AND AGENT

The street address of the corporation's Initial Registered Office is **INSERT THE STREET ADDRESS OF THE INITIAL AGENT HERE (usually the planter or lead person in the plant)** and the name of its Initial Registered Agent at that office is **INSERT THE NAME OF THE INITIAL REGISTERED AGENT HERE.**

ARTICLE 8. INCORPORATORS

The names and residence addresses of the subscribers to these Articles are as follows:

Name

Address

City, State Zip

Name

Address

City, State Zip

Name

Address

City, State Zip

ARTICLE 9. BOARD OF DIRECTORS

The directors whose positions and duties are set forth in the Bylaws will manage the affairs of this corporation. If a vacancy occurs in any office, for any reason whatsoever, it shall be filled by the Board of Directors.

The names of the first Board of Directors are as follows:

<u>NAME</u>	<u>OFFICE</u>
Name	Pastor - President
Name	Chairman
Name	Financial Secretary
Name	Treasurer

ARTICLE 10. BYLAWS

The first Bylaws of the corporation shall be adopted by the charter members and may be amended, altered or rescinded by Congregation in the manner provided by such Bylaws.

ARTICLE 11. AMENDMENTS TO ARTICLES OF INCORPORATION

These Articles of Incorporation may be amended in the manner provided by statute or in the following manner:

Every amendment shall be approved by the Board of Directors, proposed by them to the members and approved at a membership meeting for which due notice of the proposed amendment was given, by affirmative vote of a quorum of the members present.

Provided, however, that no amendment shall make any changes in the qualifications for membership nor voting rights of members without approval in writing by all members.

WE, THE UNDERSIGNED INCORPORATORS, for the purposes of becoming a corporation not

for profit under the provisions of the laws of Pennsylvania, do make and affix our signatures to acknowledge and file in the office of the

Department of State these Articles of Incorporation.

WITNESS our respective hands and seals on the dates and places indicated below.

Incorporator's Name

Date

Incorporator's Name

Date

Incorporator's Name

Date