

ORGANIZING A CHURCH LEGALLY

Adapted from David K. Bernard, *Growing a Church* (Word Aflame Press, 2001)

When a new church is planted, it is important for it to be organized legally. The following minutes are a sample of what should be done. The underlined wording will vary depending on the individual situation. Bracketed wording is optional and may also vary with the situation.

Much of this material can also be used by existing churches as resolutions.

Please note that these minutes are only a sample. They contain general information, but not every provision may apply in every state or to every situation. They are not intended to provide legal advice. For specific advice, please contact an attorney in your state. Moreover, these minutes do not contain everything that is necessary. In particular, the articles of incorporation, the bylaws, and the application for affiliation with the UPCI all need to be prepared as separate documents from these minutes.

For further discussion of legal, compensation, and tax issues, see the current edition of following resources.

1. Hammar, Richard. *Pastor, Church and Law*, Matthews, NC: Christian Ministry Resources.
2. Hammar, Richard. *Church & Clergy Tax Guide*. Carol Stream, Ill.: Christianity Today International.
3. Cobble, James F., Jr., and Richard R. Hammar. *Compensation Handbook for Church Staff*. Matthews, NC: Christian Ministry Resources.

Minutes of Organizational Meeting **First Pentecostal Church of Anytown, Inc.** **January 11, 2012**

1. Call and Notice of Meeting

These are the minutes of the organizational meeting of First Pentecostal Church of Anytown, Inc. (referred to as the “church”), a Texas nonprofit corporation. This meeting was held at 100 Main Street, Anytown, Texas, on January 11, 2012, at 7:30 PM. This meeting was called by Pastor, the incorporator named in the articles of incorporation. Notice of the time and place of this meeting was communicated by telephone and mailed on December 11, 2011, to each church board member named in the articles of incorporation.

2. Attendance and Quorum

Pastor and Presbyter were present at this meeting in person. These persons are named as board members (directors) of the church in the articles of incorporation, and their attendance constituted a quorum. District Home Missions Director, the only other board member of the church, attended the meeting by proxy. Also present at the meeting were Pastor’s Wife and Other Persons. The foregoing persons constitute the initial membership of the church, and a quorum.

3. Chair and Secretary

On a motion duly made and seconded, [by unanimous vote,] Presbyter was elected to act as chair of the meeting and Other Person was elected to act as secretary of the meeting. Both persons accepted the election and acted in their respective capacities.

4. Articles of Incorporation

A document of five pages entitled “Articles of Incorporation of First Pentecostal Church of Anytown, Inc.” was presented. After discussion, on a motion duly made and seconded, [by a unanimous vote,] the church board and membership:

Resolved, that the articles of incorporation presented to and considered at this meeting be adopted as the Articles of Incorporation of First Pentecostal Church of Anytown, Inc.

5. Bylaws

A document of seven pages entitled “Bylaws of First Pentecostal Church of Anytown, Inc.” was presented. After discussion, on a motion duly made and seconded, [by a unanimous vote,] the church board and membership:

Resolved, that the bylaws presented to and considered at this meeting be adopted as the Bylaws of First Pentecostal Church of Anytown, Inc. The secretary is directed to certify a copy of the bylaws and insert them in the minute book of the church. The secretary is directed to certify another copy of the bylaws and maintain them in the principal office of the church.

[Alternate: *Resolved*, that the church adopt as its bylaws the Local Church Government in the current *Manual* of the United Pentecostal Church International, as it may be amended from time to time.]

6. Affiliation

On a motion duly made and seconded, [by a unanimous vote,] the church board and membership:

Resolved, that the church affiliate with the United Pentecostal Church International, headquartered in Hazelwood, Missouri.

7. Officers

Pursuant to the bylaws, the church board [unanimously] chose Pastor as the founding pastor. The church membership [unanimously] endorsed this choice.

The pastor then appointed the following individuals to serve as members of the church board for a term of one year: Pastor, Presbyter, and District Home Missions Director. The church membership [unanimously] endorsed each appointment.

The pastor then appointed Other Person as secretary-treasurer for a term of one year. The church membership [unanimously] endorsed this appointment.

8. Bank Account

On a motion duly made and seconded, [by a unanimous vote,] the church board:

Resolved, that the church establish in its name one or more accounts with First Bank in Anytown, Texas, and adopt the resolutions required by the bank, which are stated on its signature card. The pastor and treasurer are authorized to establish accounts for the church. The pastor and treasurer are authorized to withdraw funds of the church from the church’s accounts by signing checks or other instruments. First Bank is authorized to honor and pay any and all checks and other instruments so signed, including those drawn to the individual order of any officer or other person authorized to sign the check or other instrument.

9. Organizational Expenses

On a motion duly made and seconded, [by a unanimous vote,] the church board:

Resolved, that the treasurer be directed to pay the expenses of incorporation and organization of the church.

10. Compensation of Pastor

On a motion duly made and seconded, [by a unanimous vote,] the church board:

Resolved, that the compensation paid to the pastor for the calendar year 2012 shall be seventy-five percent of the tithing received by the church, up to a maximum of \$110,000 [or amount requiring special scrutiny for “highly compensated individual” under IRS rules]. This designation shall apply to all future years unless otherwise provided.

[*Alternate or additional: Resolved*, that the following goal be set for the pastor’s total annual compensation (salary, housing, insurance, retirement): \$60,000.00, plus or minus \$5,000.00. It is understood that the church will not be able to pay this amount at present, but the pastor’s compensation will be increased gradually to meet this goal as the budget permits. In the meantime, the compensation may be set below or within this range by mutual agreement of the pastor and treasurer. However, any increase must be included within the annual budget that is approved by the church board.]

The pastor shall retain the copyright on all books and papers that he/she writes, and he/she shall have full rights to all royalties from the sale of his/her books and papers.

11. Housing Allowance for Pastor

On a motion duly made and seconded, [by a unanimous vote,] the church board:

Resolved, that of the pastor’s compensation, \$36,000 is hereby designated to be a housing allowance pursuant to section 107 of the Internal Revenue Code. This designation shall apply to calendar year 2012 and all future years unless otherwise provided.

12. Nontaxable Benefits for Pastor and Other Full-time Employees

On a motion duly made and seconded, [by a unanimous vote,] the church board:

Resolved, that in addition to the foregoing compensation, the church will provide the following nontaxable fringe benefits to full-time employees, when the pastor and treasurer jointly determine that such action is desirable and financially feasible and when the necessary funds are included in the annual budget approved by the church board. For the purpose of these benefits, the pastor is deemed to be a full-time employee, even if he has other sources of income. When the church is ready to add a full-time employee other than the pastor, the church board will review this policy and seek professional advice to ensure that the church provides and administers these benefits in a nontaxable way.

a. *Medical insurance*. Payment of medical insurance premiums on behalf of the employee and his/her family, for a policy or policies to be approved by the pastor and treasurer. If the employee is covered by other medical insurance (such as through a retirement plan, other employment, or a spouse), then he/she can sign a statement waiving participation in this plan.

b. *Medical cost reimbursement plan*. Reimbursement of medical costs incurred by the employee and his/her family that are not covered by insurance. Such reimbursement is to be administered in accordance with IRS regulations, and it shall be for the type of medical expenses that a medical insurance policy would ordinarily cover except for rules regarding deductibles, co-payments, and cost caps. The reimbursement may cover doctor’s bills, hospital bills, prescriptions, vision care, and dental care for the employee and his/her dependents. The maximum reimbursement allowed each year shall be \$6,000. After the church has been in existence for five years, for an employee to qualify he/she must have been employed full time for three consecutive years. It is the employee’s responsibility to submit medical expenses to the church for reimbursement.

c. *Retirement Payments*. Payments to a tax-deferred, qualified retirement plan, equal to ten percent of salary.

d. *Group term life insurance*. The purchase of up to \$50,000 of group term life insurance, or the maximum allowed as nontaxable by the Internal Revenue Service.

13. Accountable Expense Reimbursement Policy

On a motion duly made and seconded, [by a unanimous vote,] the church board adopted the following accountable expense reimbursement policy:

Resolved, that First Pentecostal Church of Anytown, Inc. hereby adopt a reimbursement policy pursuant to income tax regulations 1.162-17 and 1.274-5 (e), upon the following terms and conditions:

1. Any ministerial employee of the church will be reimbursed for any ordinary and necessary business and professional expense incurred on behalf of the church, if the following conditions are satisfied: (a) the expenses are reasonable in amount; (b) the minister documents the amount, time, place, business purpose, and business relationship of each such expense with the same kinds of documentary evidence as would be required to support a deduction of the expense on the minister's federal income tax return; and (c) the minister documents such expenses by providing the church treasurer with an accounting of such expenses, no less frequently than monthly. In no event will an expense be reimbursed if substantiated more than 60 days after the expense is paid or incurred by a minister.

2. The church will not include in a minister's W-2 form the amount of any business or professional expense properly substantiated and reimbursed according to the preceding paragraph, and the minister should not report the amount of any such reimbursement as income on his/her Form 1040.

3. Any church reimbursement that exceeds the amount of business or professional expenses properly accounted for by a minister pursuant to this reimbursement policy must be returned to the church within 120 days after the associated expenses are paid or incurred by the minister, and shall not be retained by the minister.

4. If, for any reason, the church's reimbursements are less than the amount of business and professional expenses properly substantiated by a minister, the church will report no part of the reimbursements on the minister's W-2 form, and the minister may deduct the unreimbursed expenses as allowed by law.

5. Under no circumstances will the church reimburse a minister for business or professional expenses incurred on behalf of the church that are not properly substantiated according to this policy. Church and staff understand that this requirement is necessary to prevent the reimbursement plan from being classified as a "nonaccountable" plan.

6. The minister shall retain all receipts and other documentary evidence to substantiate the business nature and amount of his/her business and professional expenses incurred on behalf of the church. The church may make copies of such evidence.

7. The church will reimburse business use of a car at the standard mileage rate currently allowed by the Internal Revenue Service.

8. This accountable expense reimbursement plan extends to nonministerial employees and volunteer workers whom the pastor designates. Their expenditures are subject to advance approval by the pastor.

14. No Compensation for Board Members

On a motion duly made and seconded, [by a unanimous vote,] the church board:

Resolved, that no church board member, including the pastor, has received or shall receive any compensation for his/her duties as a church board member.

15. Adjournment

On a motion duly made and seconded, [by a unanimous vote,] the church board and membership voted to adjourn the meeting.

Other Person, Secretary

Approved by: _____
Presbyter, Chair

Notes on the Pastor's Compensation, Benefits, and Expenses

Under the plan proposed in the foregoing resolutions, the pastor's compensation would be 75 percent of the tithing. The remaining 25 percent would be available for nontaxable benefits and ministerial expenses. If the pastor does not receive full benefits (such as insurance and retirement) from other employment, then the compensation percentage can be lowered so that more of the tithing is available to pay for nontaxable benefits. To minimize taxes, it is better to receive all the nontaxable benefits possible before receiving taxable income.

As the church's income increases significantly, the pastor's compensation percentage will need to be reduced or else converted to a flat salary. The church board or a special committee can research the typical compensation given to ministers in the United States and Canada and recommend a salary or salary range as in the alternate resolution. (See *Compensation Handbook for Church Staff*.)

The amount designated as housing allowance does not increase the pastor's compensation. It simply reclassifies compensation in accordance with tax law to provide an additional benefit to the pastor at no extra cost to the church. The actual income may be less than the designated housing allowance, and actual housing expenses may be less than the allowance (in which case the pastor can only claim actual expenses). However, the housing allowance should be set high enough to cover the maximum housing expenses that the pastor might incur in a given year, including down payment, mortgage payments (principal and interest), taxes, insurance, utilities, maintenance, furnishings, household supplies, and rent. The housing allowance is not subject to federal income tax to the extent that it does not exceed any of the following three amounts: the actual amount designated by the church, the actual amount spent for housing, and the fair rental value (market costs that would be incurred by a renter for house, furnishings, utilities, and upkeep).

The church board should pass the housing allowance before the end of the year for the upcoming year.

In addition to reimbursing the pastor for ministerial expenses, the church can also pay bills that he/she incurs on behalf of the church. The pastor can also charge ministerial expenses to a church credit card used solely for that purpose, and the church can pay the monthly bill. Here are examples of expenses that the church can pay or reimburse: mileage at the IRS rate for church business travel, books and periodicals for ministerial research, ministerial tithes and budget fees (which are required professional dues), entertainment of counselees and church guests, purchase of supplies for the church, expenses of attending church conferences and seminars, and long-distance telephone charges for church-related calls.

An automobile allowance that is not subject to an accountable expense reimbursement policy must be treated as salary. If the pastor operates an automobile owned by the church, then he/she must reimburse the church for personal mileage, which includes commuting from home to church.