



## **MNO SYNOD GUIDELINES FOR DISSOLVING A CONGREGATION**

Congregations sometimes reach the stage where they are no longer able to carry on their collective ministry. Acknowledging this leads to a time filled with nostalgia for what has been, grief for what is over, and anxiety about the future. Nonetheless, plans must be made to faithfully conclude what has been, remembering that God's mission continues and extends beyond this place alone.

When a congregation approaches this stage of its life, it is important to begin consulting with the Synod office to begin thinking about options. Sometimes, it is possible to extend the life of ministry by amalgamating with another congregation, selling its building or changing its pastoral leadership structure. However, there may also come a point when these sorts of measures are no longer sufficient, and closing the congregation is the appropriate course of action.

Congregational and synodical constitutions set out the process for closing a congregation. Trustees will be appointed by the Synod. Usually, several trustees will be members of the congregation, plus some representatives from the Synod. The function of the trustees is to administer the assets of the congregation on behalf of the Synod. The trustees also provide recommendations as to the ultimate distribution of the proceeds. The tradition has been to allocate the proceeds 1/3 to local ministries, 1/3 to regional ministries and 1/3 to national ministries.

If there are significant assets at stake, the trustees should not be afraid to seek professional help. Lawyers and accountants, used judiciously, can save money (and countless headaches) in the long run. The cost of these professionals will be covered from the proceeds of the assets.

Synod office is also here to help. We don't always have the answers at our fingertips, but we have a wealth of contacts. So there's no need to assume, and no need to guess.

These are the basic steps of the closure process:

### **1. Planning**

Congregational Council representatives meets with Bishop and/or other Synod representatives. This is where critical planning takes place. It could take place over several meetings. It is very important to get the process off on the right foot. Key decision points at the planning stage include:

- a. Determining whether dissolution the best option for the congregation, or are there other options worth exploring first. (e.g. selling the building and possibly "leasing back" some usage time, merging with another congregation ,etc.) See Schedule 4 for sample motions relating to the sale of congregational property.

- b. If dissolution appears to be the best option, then:
  - i. What is the right dissolution date? Generally, it is helpful to have the effective date of dissolution at least a few months after the meeting date. This assists with both planning issues and pastoral issues. However, it is important not to delay the date to the point that the congregation will not have sufficient cash to fulfill its liabilities in the wind-up process.
  - ii. What congregation shall the members be transferred to? (This will require consultation with the receiving congregation as well.)
  - iii. What will be required for the meeting? (Review congregational constitution for proper notice, quorum, votes needed to pass, etc.)
  - iv. What preliminary plans need to be made for a special service of celebration and thanksgiving for the years of ministry of the congregation?

## **2. Congregational Meeting Regarding Dissolution**

Proper notice of meeting and quorum of adult members is essential, given the nature of the meeting. The issue must be handled in a sensitive but straightforward manner. At the invitation of congregational council, a representative of the Synod may be able to attend. The motions are fairly technical, so follow them closely. See Schedule 1 for standard motion language.

In the event that the congregation is so diminished that quorum cannot be achieved at a members' meeting, the congregational council can request that Synod Council declare the congregation defunct. In the absence of exceptional circumstances, Synod Council will not typically grant such a request unless the congregation has first attempted to hold a meeting but was unable to obtain sufficient attendance for quorum. See Schedule 2 for standard motion language.

## **3. Synod Council Appointment of Trustees**

Once the congregation has voted to dissolve, or congregational council has requested a declaration, Synod Council will appoint trustees, including Synod representatives and congregation representatives. In the interests of time, Synod Council will probably proceed with this appointment via e-meeting, rather than waiting for one of their scheduled in-person meetings. See Schedule 3 for standard motion language.

The appointment will become effective on the dissolution date, however, the trustees will probably want to start the groundwork immediately.

## **4. Service of Celebration and Thanksgiving**

An important part of closure is a service of thanksgiving, where members and friends can acknowledge the history of the congregation, give thanks for the ministry that occurred, and for the many people who were fed and nurtured in the Christian faith. For assistance in planning for worship see *Evangelical Lutheran Worship, Occasional Services for the Assembly: Service of Leave-Taking*, Minneapolis: Augsburg Fortress, 2009, p. 125-128. Synod office staff is also available to assist with planning and participating in such a service.

## **5. Take inventory of assets**

- a. Financial Assets
- b. Real Property
- c. Personal Property

## **6. Liquidate assets**

- a. Financial assets converted to cash as cost-effectively as time will allow.
- b. Real property is sold, if possible.
- c. Furniture, hymn books, musical instruments, sheet music, kitchen supplies, altar ware, etc., may be donated to other congregations or ministries, or they may be sold as appropriate.
- d. Determine which books and records will be retained (and where), and arrange for disposal of remaining records.
- e. If there is a cemetery, make arrangements for care and upkeep, including transfer of land involved, completion of any corporate details, selection of directors, and disposition of any excess land.

## **7. Ongoing operations**

- a. CRA filings (T3010)
- b. Corporate filings
- c. Insurance
- d. Property maintenance (Heat, light, water, snow removal, regular inspection, etc.)
- e. Transfer of memberships to other congregations

## **8. Distribute assets**

- a. Don't distribute too much too soon – you may need cash to look after real estate, pay bills, etc.
- b. The assets are being held in trust for the Synod, pursuant to the constitutional and synodical constitutions. Therefore, distributions can only be made to the Synod or the Synod's nominee. Need to check with the Synod for their direction on this point.
- c. However, the Synod expects the trustees to also provide recommendations as to the ultimate distribution of the proceeds. The tradition has been to allocate the proceeds (after any final expenses that are paid by the Synod) as follows: 1/3 to local ministries, 1/3 to regional ministries and 1/3 to national ministries. Typically, Synod Council accepts the recommendations of the trustees on these distributions.

## **9. Request Voluntary Revocation of Charitable Status**

If the trustees have completed the distribution of assets without filing a T-3010 that indicates that the congregation has dissolved, then they will want to write to CRA to request a voluntary revocation, to keep the process moving. If a T-3010 indicating that the congregation has dissolved has already been filed, then the trustees have probably already received (or will shortly receive) a Notice of Revocation from CRA.

## **10. Receive Notice of Revocation**

Once the trustees have received a Notice of Revocation, it is essential to check the date of revocation on the Notice.

- a. No more charitable receipts can be issued after the date of revocation.
- b. Also, all assets need to be disposed of within one year of the date of revocation. Any assets remaining in the charity after that date are essentially forfeited to the CRA, through a “revocation tax.” If some of the assets have proven difficult to liquidate as the deadline approaches (such as the real property), it may be necessary for the trustees to transfer those assets directly to the Synod rather than risk forfeiture. If this situation arises, it needs to be discussed with the Synod several months in advance of the deadline.

## **11. File Final Tax Return (T-2046)**

- a. This must be filed within one year of the Revocation date shown on the CRA Notice of Revocation. It must show that all of the assets of the congregation have been distributed to eligible recipients, or else they are forfeited to the government in the form of a “revocation tax.”
- b. Generally, the T-2046 will show only the Synod as the sole recipient of proceeds. Subsequent distributions by the Synod are not relevant to this CRA form.

## **12. Wind up corporation (if congregation is incorporated)**

- a. Immediately after the trustees have received a clean Notice of Assessment from CRA on the T-2046, the corporation should be dissolved at the appropriate Corporations Branch.
- b. Typically, this is processed by a lawyer. The cost of this will be paid for by the Synod from the gross proceeds that have been distributed to the Synod.

## FORM OF CONGREGATIONAL MEMBERS RESOLUTIONS FOR DISSOLUTION OF A CONGREGATION

Important note: A motion to dissolve a congregation should only be undertaken after consultation with the synod bishop. Advance planning is essential to a successful, orderly dissolution. Canada Revenue Agency rules require all assets of a charity to be distributed within 12 months of dissolution (failing which any undistributed assets are forfeited to CRA). Since some assets (particularly real estate) may take a long time to deal with, it is essential to have “all the ducks in a row” before starting that one-year clock ticking.

***Chair determines whether there is quorum of adult members. (Attach attendance sheet to minutes.) If there is quorum, the congregational meeting can proceed. If there is no quorum, you may wish to consider having the congregational council request that the MNO Synod Council declare the congregation defunct. (see “Draft Congregational Council Resolutions for Requesting Dissolution of a Congregation”.)***

1. Whereas the membership of this congregation has so diminished in numbers as to render it impossible or impractical for the congregation to function according to its constitution and bylaws, be it resolved that this congregation be dissolved, effective \_\_\_\_\_ (date).

***Note: Check the congregational constitution and/or bylaws to determine whether this motion would require a simple majority or a 2/3 majority to pass.***

***If possible, select a date several months in the future, to facilitate an orderly transition from the congregational leadership to the trustees.***

2. Resolved that the members of this congregation who do not otherwise request a transfer by \_\_\_\_\_ (date) be transferred to \_\_\_\_\_. (name of another MNO Synod congregation)

***Note: This must be discussed with the receiving congregation and the bishop in advance.***

***Use the effective date from motion number 1.***

3. Resolved that those individuals presently having signing authority for this congregation are hereby authorized to take such steps as are necessary to maintain the operations of the congregation and preserve its assets, pending appointment of trustees by the MNO Synod who are hereby authorized to take charge and control of the property of the congregation to hold, manage and convey the same on behalf of the MNO Synod. ***(If the congregation is incorporated, add the following sentence: “The trustees, upon appointment by the MNO Synod, shall be the sole members and directors of \_\_\_\_\_ (name of the corporation).”***

4. Resolved that this congregation recommend that the following individuals be among the trustees appointed by the MNO Synod Council:

Name	Address	Phone #

***Note: Consult with the Synod about the number of trustees that will be appropriate, which will depend on the nature of the remaining assets of the particular congregation.***

## FORM OF CONGREGATIONAL COUNCIL RESOLUTIONS FOR REQUESTING DISSOLUTION OF A CONGREGATION

Important note: A motion to request dissolution of a congregation should only be undertaken after consultation with the synod bishop. Advance planning is essential to a successful, orderly dissolution. Canada Revenue Agency rules require all assets of a charity to be distributed within 12 months of dissolution (failing which any undistributed assets are forfeited to CRA). Since some assets (particularly real estate) may take a long time to deal with, it is essential to have “all the ducks in a row” before starting that one-year clock ticking.

***If it is not feasible to achieve quorum at a meeting of the adult members of the congregation, the congregational council should consider whether to ask the Synod Council to declare the congregation defunct. This motion of congregational council could be worded as follows:***

Whereas the membership of this congregation has so diminished in numbers as to render it impossible or impractical for the congregation to function according to its constitution and bylaws, be it resolved:

1. That, pursuant to the congregational constitution and the MNO Synod constitution, this congregational council request that the MNO Synod Council deem this congregation to be defunct, and to appoint trustees to take charge and control of the property of the congregation to hold, manage and convey the same on behalf of the MNO Synod. ***(If the congregation is incorporated, add the following sentence: “The trustees, upon appointment by the MNO Synod, shall be the sole members and directors of \_\_\_\_\_ (name of the corporation).”)***
2. That this congregational council recommend that the following individuals be among the trustees appointed by the MNO Synod Council:

Name	Address	Phone #

***Note: Consult with the bishop in advance about the number of trustees that will be appropriate, which will depend on the nature of the remaining assets of the particular congregation.***

## FORM OF SYNOD COUNCIL RESOLUTIONS FOR APPOINTMENT OF TRUSTEES

Important note: These motions typically flow from a prior motion by the congregation declaring itself closed, or a formal request from the congregational council asking the congregation be declared defunct, following at least one unsuccessful attempt to obtain quorum at a congregational members meeting. Although the Synod Council has the authority to pass these motions in the absence of such congregational input, they would only do so in very exceptional circumstances.

1. Whereas the membership of \_\_\_\_\_ (name of congregation) has so diminished in numbers as to render it impossible or impractical for the congregation to function according to its constitution and bylaws, this Synod Council hereby declares \_\_\_\_\_ (name of congregation) defunct, effective \_\_\_\_\_ (date).
  
2. This Synod Council hereby appoints the following trustees to take charge and control of the property of the congregation to hold, manage and convey the same on behalf of the MNO Synod. ***(If the congregation is incorporated, add the following sentence: "The trustees shall be the sole members and directors of \_\_\_\_\_ (name of corporation).")***
  - a. \_\_\_\_\_ (full name of trustee)
  - b. \_\_\_\_\_ (full name of trustee)
  - c. \_\_\_\_\_ (full name of trustee)
  - d. \_\_\_\_\_ (full name of trustee)
  - e. \_\_\_\_\_ (full name of trustee)

***Note: These trustees will typically be those individuals recommended by the congregation, plus some representatives of the Synod. The appropriate makeup of the trustee group will depend in part on the nature of the remaining assets of the particular congregation.***

## SAMPLE CONGREGATIONAL RESOLUTIONS FOR SELLING REAL PROPERTY

Important notes:

These motions are not used if the congregation is intending to dissolve. They are only used if the congregation intends to carry on without owning their own building. These motions are included in this document because diminished congregations often consider both the sale option and the dissolution option when deciding their future.

There are different ways to go about authorizing the sale of real property. At one end of the spectrum, the congregational members can give the council full discretion to set the price and terms. At the other end of the spectrum, the congregational members can authorize the council to proceed on the understanding that any sale they are able to negotiate would be subject to subsequent congregational member approval. The right approach will depend on the circumstances of the individual congregation. However, it is important to keep in mind that restrictions limiting the discretion of the congregational council may make the property less saleable. We have provided draft motions below for the two ends of the spectrum.

***Chair determines whether there is quorum of adult members. (Attach attendance sheet to minutes.) If there is quorum, the congregational meeting can proceed. The motion of congregational members could be worded as follows:***

### **Option 1: Full Authorization**

Be it resolved that the congregational council of this congregation be authorized to sell the land and buildings located at \_\_\_\_\_ (address) for such price and on such terms as the congregational council deems fit, which terms may or may not include a vendor take-back mortgage, or a lease-back of the property.

***Note: Check your congregational constitution and/or bylaws to determine whether this motion would require a simple majority or a 2/3 majority to pass.***

### **Option 2: Conditional Authorization**

Be it resolved that the congregational council of this congregation be authorized to pursue the possibility of selling the land and buildings located at \_\_\_\_\_. (address), including retaining professional assistance and offering the property for sale. Any offer to purchase or sell the property must be made conditional upon congregational approval at a properly called members' meeting.

**Note:** *Check your congregational constitution and/or bylaws to determine whether this motion would require a simple majority or a 2/3 majority to pass.*

*Conditional authorization may have the effect of making the property more difficult to sell, as some potential purchasers may not want to participate in negotiations with the congregational council, knowing that the members of the congregation may not ratify the result.*