



# The Episcopal Diocese of Northern California

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## TEMPLATE 1 ARTICLES OF INCORPORATION

### ARTICLES OF INCORPORATION OF THE RECTOR, WARDENS, AND VESTRY OF \_\_\_\_\_ PARISH IN \_\_\_\_\_, CALIFORNIA

ARTICLE ONE. The name of the existing unincorporated association now being incorporated by the filing of these articles is THE RECTOR, WARDENS, AND VESTRY OF \_\_\_\_\_ PARISH IN \_\_\_\_\_, CALIFORNIA.

[Notes. This provision is required by Corp. Code Sec. 9130(a).

The form of the name is prescribed by Diocesan Canon 32.4(a).]

#### ARTICLE TWO.

- A. This corporation is a nonprofit religious corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Religious Corporation Law exclusively for religious purposes.

[Notes. This provision is required by Corp. Code Sec. 9130(b).]

- B. An existing unincorporated association whose name is \_\_\_\_\_ is being incorporated by the filing of these articles.

[Note: This language is required by Corp. Code 9121 for automatic succession to assets and liabilities of the predecessor unincorporated association.]

- C. The specific purposes of this corporation are
1. to manage the affairs and conduct the business of the \_\_\_\_\_ Parish in \_\_\_\_\_, California, an integral subordinate unit and part of The Episcopal Church and the Episcopal Church in Diocese of Northern California,
    - a. incorporated as a convenience to assist in the conduct of the temporalities of the Parish but remaining subordinate to the Parish standing as an agent of the Parish to hold title to property with power to manager and control the same in accordance with the interest of the Parish,

- b. in accordance with the Constitution, Canons, Doctrine, Discipline, and Worship of The Episcopal Church and the Constitution and Canons of its Episcopal Church in the Diocese of Northern California, and
  - c. subject to the limitations set forth in these articles, to engage in any lawful act or activity for which a corporation may be organized under the California Nonprofit Religious Corporation Law, and
2. to refrain, except to an insubstantial degree, from engaging in any activities or exercise any powers that are not in furtherance of any specific purpose of this corporation, notwithstanding any of the above statements of purposes and powers.

[Note: Paragraph 1 Sets forth the purpose of the corporation as authorized by Canon 33.1. Subparagraph a in characterizing the purpose as the conduct of temporalities follows Canon 32.4(b) and describes the relationship in the manner used by the California Supreme Court in Wheelock v. First Presbyterian Church (1897) 119 Cal. 477, 483, followed by Berry v. Society of Saint Pius X (1999) 69 Cal.App.4<sup>th</sup> 354, 370, and both quoted and followed by Episcopal Church Cases (2007) 152 Cal.App.4<sup>th</sup> 808, hearing granted. These provisions invoke the “principles of government” approach as applied to a hierarchical church for resolving issues concerning church property. The remaining language adopts the powers and limitations of the Nonprofit Religious Corporation Law.]

ARTICLE THREE. The name and address in California of this corporation’s initial agent for service of process is:

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: CALIFORNIA ZIP: \_\_\_\_\_

[Note: This provision is required by Corp Code Sec. 9130(c).]

ARTICLE FOUR. This corporation is not organized, nor shall it be operated, for pecuniary gain or profit, and it does not contemplate the distribution of gains, profits, or dividends to its members, and is organized solely for nonprofit purposes. The property, assets, profits, and net income of this corporation are irrevocably dedicated to religious purposes and no part of the profits or net income of this corporation shall ever inure to the benefit of any director, officer, or member or to the benefit of any private shareholder or individual. On the dissolution or winding up of this corporation, its assets remaining after payment of, or provision for payment of, all debts and liabilities of this corporation shall be distributed to THE EPISCOPAL CHURCH IN THE DIOCESE OF NORTHERN CALIFORNIA, a California corporation. In the event that The Episcopal

Church in the Diocese of Northern California is not then in existence, or shall be otherwise unqualified or unable to receive such assets, they are then to be distributed to THE EPISCOPAL CHURCH, also known as THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA. In the event that THE EPISCOPAL CHURCH shall also be unqualified or unable to receive said assets, then the assets of this corporation shall be distributed to another corporation which is organized and operating exclusively for nonprofit purposes, and which has established its tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, and which is qualified for exemption from taxation under 23701d of the California Revenue and Taxation Code.

[Note:

1. This provision is required for tax exemption under the cited statutes.
2. This provision exercises the permissive authority granted by Corp. Code Sec. 9132(a)(2) to require the property of a subordinate corporation to be distributed upon dissolution to the head corporation and satisfies the requirement of that statute that any such provision be provided in the articles of the subordinate corporation.]

ARTICLE FIVE. No amendment, modification, or repeal of Paragraph C of Article Two, of Article Four, of this Article Five, or of Article Six of these Articles or of any Bylaw implementing them shall be valid unless thirty days prior written notice setting forth the language proposed for adoption and of date, time, and place of the meeting of the Board of Directors or any other body authorized or required to act, is served personally on the Bishop of the Episcopal Church in the Diocese of Northern California or by United States Mail, postage prepaid, addressed to the then current address of the Diocesan office.

[Note: It is appropriate that notice be given to the Diocese of any action affecting its interest.]

ARTICLE SIX.

A. This corporation, having been organized to assist in the conduct of the temporalities of a Parish of The Episcopal Church and the Episcopal Church in the Diocese of Northern California, shall be subject to, conform to, and abide by the Constitution and Canons thereof as they exist now and are amended in the future. Any action taken or bylaw adopted by this corporation is void to the extent that is inconsistent with or in violation of these Constitutions and Canons of either The Episcopal Church or of the Episcopal Church in the Diocese of Northern California.

[Note: This provision expresses the relationship between the parish and the larger church. It satisfies Protestant Episcopal Church v. Barker (1981) 115 Cal.App3d 599,

which only applied a diocesan property canon where it was expressly incorporated into local articles. The second sentence invalidating nonconforming action or bylaws is added to reflect the policies of the Diocese and national church.]

- B. All real and personal property held by or for the benefit of this corporation is irrevocably held in trust for The Episcopal Church, the Episcopal Church in the Diocese of Northern California, and this Parish; however, the existence of this trust shall in no way limit the power and authority of this corporation otherwise existing over such property so long as this corporation and the Parish to which it is subordinate remain a part of, and subject to, The Episcopal Church, the Episcopal Church in the Diocese of Northern California and their Constitution and Canons.

[Note: With one addition this language tracks the provisions of national Canon I.7.4. Although the next canonical provision, I.7.5, authorizing further diocesan confirmation of this rule, but declaring such action unnecessary, might render this provision redundant, inclusion in the articles satisfies the requirement of California-Nevada Annual Conf. v. St. Luke’s United Methodist Church (2004) 121 Cal.App.4<sup>th</sup> 754, that any declaration of trust affecting local property must be made by the local entity and that no local entity can be subject to such a declaration imposed by a senior body. In addition to tracking the language of the cited canons, this provision makes the trust irrevocable in order to satisfy the holding of the same case that any trust is revocable unless expressly made irrevocable.]

- C. This corporation shall not encumber or alienate any real property it is authorized by Civil or Canon law to hold, manage, or administer or any part thereof without the written consent of the Bishop and Standing Committee of the Diocese, except under such regulations as may be prescribed by Canon of the Diocese.

[Note: This provision tracks the language of national Canon I.7.3. Taken together, the provisions of this Article seek to satisfy the “neutral principles” approach adopted for resolving issues of church property by Presbytery of Riverside v. Community Church of Palm Springs (1979) 89 Cal.App.3d 910 and the Barker case cited above.]

ARTICLE SEVEN. The names and addresses of the initial Directors are as follow.

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[Acknowledgement]

[Note: The foregoing Template is offered to suggest language that satisfies the Diocesan policy concerning its relationship with its parishes, missions, and congregations. Any congregation contemplating incorporating needs the advice of local counsel to take it through the whole process from reserving a name to holding the first meeting of the board of directors and drafting the minutes. These steps vary infinitely with local facts. The same advice applies to any congregation seeking to amend its existing articles of incorporation.