

**FAITH EVANGELICAL LUTHERAN CHURCH
MEMORIAL PRAYER GARDEN**

886 North Shore Drive
Forest Lake, Minnesota 55025

RULES AND PROCEDURES

Effective: March 2008

I -ESTABLISHMENT AND ADMINISTRATION

- A. *Establishment.* The name of this facility is the Faith Evangelical Lutheran Church Memorial Prayer Garden ("Garden"). The Garden consists of a landscaped area and walkway, the Columbarium, and the Memory Wall. The Garden is owned by the Church and will be operated and maintained subject to the approval of the Church Council of the Church as fully constituted from time to time.
- B. *Purpose.* The Garden reflects a tradition in the Christian Church of interring the remains of its members within the Church walls or churchyard. Today, the Garden visibly proclaims the Church's mission to be a caring community and it reflects the centrality of faith in the life journey of its members.
- C. *Administration.* Custody and control of the Garden and the Interment Sites, its design, landscaping, and all matters relating to its operation, are vested in the Council of the Church. The Memorial Prayer Garden Committee is delegated the authority to manage, subject to the direction and control of the Council, the landscaping, operation, physical maintenance of the Garden, and will have authority to enter into Interment Agreements. The daily administration of the Garden shall be vested in the Church's Representative.
- D. *Records and Operation.* The Church shall:
1. Execute Interment Agreements and oversee the receipt and use of funds;
 2. Maintain all files and records for the Garden, including the identity and the location of Grantees, Ashes Interred in or removed from the Garden; and
 3. Maintain the Garden, including the architecture and landscaping, and supervise all service providers, such as water irrigation system, water feature, snow plowing, tree care, gardening and lawn service, to prevent damage to the Garden.

II -DEFINITIONS

For purposes of the Rules and Procedures, the following definitions will apply:

"Ashes." The cremated remains of a human body.

"Church." Faith Evangelical Lutheran Church of Forest Lake, Minnesota, a Minnesota nonprofit corporation located at 886 North Shore Drive, Forest Lake, Minnesota 55025, including the Council, the corporation and Trustees, its clergy and congregation. Unless indicated otherwise, the person authorized to sign documents or to act on behalf of "the Church," as referenced herein, shall be the Church's Representative.

"Church Council" or "Council of the Church." The primary ruling body of the Church.

"Church's Representative." A designated member of the Memorial Prayer Garden Committee or such other person as may be designated by the Council to act on behalf of the Church with respect to matters involving the Garden.

"Columbarium." The constructed storage facility within the Garden, which is comprised of individual Niches in which urns containing Ashes are placed.

"Designated Person." An Eligible Person who is listed by a Grantee in an Interment Agreement as a person who may be Interred in the Site designated in lieu of the Grantee.

"Eligible" or "Eligible Person." The following persons are Eligible for Interment in the Garden: (1) members of the Church, including associates, (2) immediate and extended family of members (3) current or former pastors of the Church, and (4) ordained Lutheran pastors.

"Grantee." An Eligible Person who acquires a right to use an Interment Site in the Garden by entering into an Interment Agreement with the Church. Grantee as used herein shall include his or her heirs, administrator, personal representative, executor, successors and assigns. In the event the Grantee is deceased or otherwise cannot be located, and two or more persons assert authority to act as the successor or representative of the Grantee, the Church shall have the sole authority to determine which person shall be entitled to act as the Grantee.

"Inscription." The inscription of the name and birth and death years of an Eligible Person Interred, or on a Memory Wall designed for inscription will include the name only.

"Inter" or "Interment." The placing of Ashes, in an urn, into a Niche, pursuant to the terms of an Interment Agreement.

"Interment Agreement." The agreement between a Grantee and the Church by which a Grantee acquires the sole and limited right to use an Interment Site in the Garden for the Interment of Ashes of the Grantee or a Designated Person.

"Interment Site." A specific location, designated in an Interment Agreement, for Interment of Ashes in the Garden within a Niche.

"Memory Wall." A wall or other monument in the Garden designed for the purpose of inscribing the names of Eligible Persons, Interred in the garden or elsewhere.

"Niche." An individual unit of the Columbarium designed to hold the Ashes of one or two persons, as designated by the Church.

"Purchaser." A person who entered into an Inscription Agreement for an inscription on the Memory Wall or a paver.

"Rules." These Rules and Procedures for the Garden, as adopted by the Council of the Church, and as may be amended from time to time, in the sole discretion of the Council.

III-RULES AND PROCEDURES

A. *Purpose.* The Church Council has adopted these Rules as a statement of its intent and policy. The Rules are designed to protect the current interests of both the Grantee or Purchaser, and the Church, and to preserve the decorum and appearance of the Garden over time.

B. *Applicability.* These Rules constitute the terms and conditions governing the long-term design, operation and maintenance of the Garden, and shall be incorporated by reference into all Interment Agreements and Inscription Agreements. In entering into an Interment Agreement or Inscription Agreement, the Grantee or Purchaser shall agree to abide by these Rules, as may be amended from time to time, and any other regulations, restrictions and conditions as may be set forth by the Church, and agrees that they are legally enforceable. A copy of the current Rules and Procedures will remain in the Church office and may be viewed at any time during regular Church office hours.

C. *Amendment.* The Rules may be amended, in whole or in part, at any time by the Church Council, as it, in its sole discretion, deems appropriate. The Council will give notice of major changes to the Rules, which are defined as materially changing the function or use of the Garden during the life of the Grantee or Purchaser. The Interment Agreement or Inscription Agreement may be amended only by a writing signed by the Church and the Grantee or Purchaser.

D. *Exemptions.* Exemptions to these Rules may be made by the Church for cogent reasons but shall not exempt any Grantee or Purchaser from other regulations, rules, conditions or restrictions that may apply. A specific exemption must be recommended by a member of the Clergy of the Church and approved by the Church Councilor by any two of the following: (a) Senior Pastor, or (b) Associate Pastor, or (c) Church Representative. Written notice of the grant of an exemption shall be presented to the Council at its next meeting. The exemption shall be given to the Grantee or Purchaser in writing and signed by the Church's Representative.

E. *Subject to Laws.* In addition to the Rules set forth herein, the rights of a Grantee or Purchaser are subject to, and a Grantee or Purchaser shall abide by, applicable laws and regulations of properly constituted governmental bodies or agencies. If any portion of Rules is deemed to be in violation of applicable laws and regulations, the Church shall be given the opportunity to make the appropriate amendment, without effect on other provisions set forth herein or as they may be amended.

F. *Eligibility and Right of Use.* An Interment Agreement or Inscription Agreement must be executed in order to use the Garden. Interment and Inscriptions are limited to Eligible Persons. Non-Eligible persons may use the Garden on an exemption basis.

G. *Right of Refusal.* The Church reserves the right to refuse to enter into an Interment Agreement with any person or persons, for any reason.

H. *Interment Service Required.* A religious service shall be held in connection with each Interment. A member of the clergy of the Church shall conduct the service or, at the discretion of the Church's Representative, the service may be conducted by another member of the clergy, but a representative appointed by the Memorial Prayer Garden Committee shall in any case be present.

I. *Time of Interment.* Interments or other services will be made when reasonably feasible to do so after the Church has received adequate notice from a Grantee or Purchaser or Grantee's heirs or personal representative. In the event the Garden is under initial construction or undergoing maintenance or remodeling, Interment shall not occur until the required construction is complete and accepted by the Church. If, for any reason, the actual Interment Site cannot be opened or made available at the time of need the Church may temporarily, without liability to the Church, provide an alternative space, so as not to delay the Interment service. The Church has the right to refuse Interment of Ashes when it is impractical to do so and may suggest an alternative time or day. Acceptance of a different time or day than that originally requested will be the only remedy of the Grantee or Purchaser.

J. *Ashes.* Only cremated human remains may be Interred in sites within the Garden. No valuables shall be placed in the Urn or Niche. Other use of an Interment Site is strictly prohibited.

K. *Identification of Ashes.* The Church is entitled to rely on the representations of Grantee or appropriate third persons that the Ashes to be Interred are those of the Grantee or a Designated Person.

L. *Disturbance of Ashes.* The Interment Site specified in the relevant Interment Agreement constitutes the express wish of the Grantee. The Church may, but shall have no obligation, to allow changes in Niche locations or to allow Ashes to be permanently removed from a Niche.

M. *Interment Errors.* Should Ashes be placed in the wrong location, the Church will offer a new location to the Grantee. Acceptance of the new space will be the only remedy of the Grantee. The Church will accept the costs associated with disinterment and re-interment due to its error. Should the Church resell the same Interment Site in error, the subsequent purchasing Grantee will be given the option to either a refund for all monies paid or to purchase another available Interment Site.

N. *Access to Church Grounds.* The Church reserves the right to limit access or to restrict ingress and egress to the Garden, as it may deem necessary. Disturbances on or near the Garden area, inconsiderate behavior, and other actions deemed by the Church, in its sole discretion, to be unacceptable will not be permitted. The Church reserves the right to limit access and to set the hours that the Garden will be open or available for visiting or services.

O. *Decorations.* No flowers, plants or other decorations shall be placed in the Garden, except those placed or authorized by the Church. Flowers and a cross may be placed next to a Niche at the time of Interment and remain for up to three (3) days thereafter. The use of fraternal seals, professional designations or similar inscriptions is expressly prohibited. The Church may remove and dispose of any unauthorized items found in the Garden.

P. *Alterations and Improvements.* The Church reserves the right to alter the Garden design, to change the size or boundaries of the Garden, and to make improvements as it sees fit. All improvements and changes of any kind to the Garden or any type of work including, but not limited to, opening and sealing of Niches, installation or removal of memorializations, Interments or disinterments, improvements or alterations, plantings or landscape care, as well as the use of materials, equipment, devices, outside agents or products, shall be under the exclusive control and authority of the Church.

Q. *Termination or Relocation of Garden.* The Church cannot guarantee that it will be able to continue operation of the Garden forever. The Church reserves the right, for whatever reasons, to relocate, remove or dismantle the Garden. Such determination will be made at the sole discretion of the Church Council. For Ashes already Interred in a Niche, the Grantee shall have the right to remove the Ashes from the Garden to relocate them to a different place of his or her choosing. The Church reserves the right to remove and re-inter Ashes, at its cost, in alternative location in a legal and Christian manner. Under no circumstances shall any person or persons be entitled to any refund from the Church. The Church shall not be responsible for locating the Personal Representative heirs or next-of-kin of a Grantee to inform them of its intended action. The Grantee agrees to abide by the decision of the Church, whatever that might be, for all future time.

R. *Verbal Instructions.* The Church is not responsible for any instructions given verbally. Rights of the Grantee are established and defined by the Interment Agreement, these Rules and by any other form proscribed by the Church and mutually executed by a Grantee and the Church's Representative.

S. *Warranties.* The Church makes no warranties, express or implied, concerning the durability or expected life or condition of grounds, facilities or products offered to Grantee or Purchaser.

T. *Force Majeure*. The Church shall not be deemed to be in default of these Rules or an Interment Agreement or Inscription Agreement to the extent the performance of its obligations or its attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, vandalism, act of Government, shortages of materials or supplies, or any other cause beyond the control of the Church. In such event, the Church shall have reasonable time to complete performance or cure any breach, but in no event in excess of one (1) year.

U. *Cancellation*. In the event in which no Interment shall have occurred within five years after the death of the Grantee, and upon no response after 90 days of a certified letter sent to his/her last known address, and/or the addresses of known family members, the Church may terminate the reservation upon recommendation of the Council.

V. *Landscape Donations*. Flowers, shrubs or trees will be accepted only according to the designated landscape plan and with the permission of the Church Representative.

SECTION IV -INTERMENT AGREEMENT

A. *Procedure for Application and Purchase of the Use of Interment Sites*.

1. Eligible Persons desiring to purchase the right to use an Interment Site in the Garden will submit a written application, on the form specified by the Church, entitled "Interment Agreement" to the Church. The form will include all information necessary for the Church's Representative to act on the request.
2. Upon verification of the applicant's information and Eligibility, the Church's Representative is authorized to sign the Interment Agreement on behalf of the Church. The Interment Agreement shall not be binding until executed by the Church and full payment received from the Grantee. All other authority to approve or sign contracts remains in the Church Council.
3. Upon execution of the Interment Agreement by the Church's Representative and receipt by the Church of payment in full cost for the Interment Site in effect at the time of execution, the designated Interment Site will be reserved for the Grantee.
4. The Interment Agreement shall be executed in duplicate, with one original delivered to the Grantee and the other to the Church.
5. The Interment Agreement and Grantee's rights therein may not be assigned, transferred or inherited, without the written consent of the Church and shall not be subject to the claims of creditors.

B. No Real Property Right. The Interment Agreement is only a license to use a designated Interment Site in the Garden. No real property right or interest is created or transferred to Grantee by the Interment Agreement, or by these Rules and Procedures.

C. Change in Designated Persons. During the named-Grantee's lifetime, the Grantee may from time to time change the list of Designated Persons by a written amendment to the Interment Agreement signed by the Church and the named-Grantee. The right to change the list of Designated Persons terminates upon the death of the Grantee.

D. Payment. Payment to the Church, through the Church's Representative, for the use of an Interment Site in the Garden shall be in full and in such amount and in such manner as may be determined from time to time by the Church. The Grantee's payment for use of a site in the Garden is made without any reservation, conditions or restrictions and the monies may be used for any lawful purpose deemed proper by the Council.

E. Limitation of Liability. It IS the intention of the Church to exercise reasonable and ongoing care to maintain the Garden. However, neither the Church nor any person acting for the Church assumes or shall have any liability or responsibility for the preservation or loss of, or damage to the Ashes of any person Interred in the Garden, or for any loss or damage relating to the Garden from acts of God, vandalism, theft or other causes or contingencies. In the event of any breach of the Interment Agreement by the Church or its agents, the Grantee's sole remedy shall be return of the original purchase price. Grantee shall have no other rights or remedies in law or equity.

F. Application of Rules to Interment Agreements. These Rules and Procedures and all amendments, alterations, changes or modifications thereof shall apply to and be binding on the Grantee or any person succeeding to any right under the Interment Agreement.

G. Termination of Interment Agreement.

1. Repurchase of Site by Church. If there has been no prior Interment and the Grantee determines that the Interment Site is no longer needed, the Church shall have a right to repurchase the Interment Site but shall have no obligation to do so. Upon thirty (30) days' written notice to the Church's Representative of a request to repurchase, the Church may, in its sole discretion, agree to repurchase the Grantee's rights. If it elects to repurchase, the Church shall pay eighty percent (80%) of the sum paid by the Grantee at the time of purchase. The remaining twenty percent (20%) of the original payment shall be retained by the Church for its administrative cost. There shall be no right in the Grantee to any accrued interest.

2. Sale of Interment Site by Grantee to Eligible Persons. Interment Sites may not be sold, transferred, or assigned by a Grantee without the prior written consent of the Church's Representative. If a Grantee transfers an Interment Site with the prior consent of the Church, the name, address, telephone number and eligibility of the proposed transferee shall be forwarded to the Church's Representative for review and written approval. Any attempted transfer or assignment without such written consent shall be null and void and of no effect.
3. Removal of Ashes Interred. In the event there has been an Interment in a Niche and the personal representative or immediate family of the person whose Ashes have been interred wish to permanently remove the Ashes from the Niche, then the Church shall, upon thirty (30) days' written notice to the Church's Representative of such request, repurchase the Interment Site in an amount of eighty percent (80%) of the sum, without accrued interest, paid by the Grantee at the time of purchase, less the all costs incurred by the Church in connection with the purchase, inscription, removal and installation of a replacement faceplate for that Niche.

SECTION V -PROVISIONS SPECIFIC TO INTERMENT IN COLUMBARIUM NICHES

A. Purchase Price. The purchase price for a Niche shall include the cost of initial Interment of the Ashes, an urn provided by the Church, and engraving of the face plate with the name of the Person whose Ashes are Interred. The purchase price shall also include maintenance of the Interment Site and the Garden in general and the cost of maintaining records of use and administration of the Garden.

B. Capacity of Niches. Niches shall be designated for Interment of the Ashes of either one or two Designated Persons. Niches may not house the Ashes of more persons than the number designated in this agreement.

C. Urns. Interment of Ashes within a Niche shall be in an urn provided by the Church, which is included in the purchase price for a Niche. The deceased's name and date of death shall be inscribed or permanently affixed on the outside of all urns.

D. Inscription on Face Plate. The name(s) and years of birth and death of the person(s) Interred in a Niche shall be recorded by the Church on the faceplate of the Niche. The cost of the inscription is included in the purchase price. No other inscriptions are permitted other than as provided herein.

SECTION VI -MEMORY WALL AND PAVERS

A. Procedure for Application and Purchase of Inscription on Memory Wall or Paver.

1. The names of any Eligible Person may, upon submission of the written application and payment of the current purchase price, be inscribed on the Memory Wall or paver.

2. Persons may purchase an Inscription on a Memory Wall or paver for an otherwise Eligible Person Interred elsewhere by submitting a written application, in the form provided by the Church, entitled "Inscription Agreement" to the Church. The form will include all information necessary for the Church's Representative to verify Eligibility and the requisite information for the Inscription.
3. Upon verification of the applicant's information and the Eligibility of the person whose name is to be on the Inscription, the Church's Representative is authorized to sign the Inscription Agreement on behalf of the Church. The Inscription Agreement shall not be binding until executed by the Church and payment received from the Grantee.
4. Upon execution of the Inscription Agreement by the Church's Representative and receipt by the Church of payment in full cost for the cost of the Inscription in effect at the time of execution, the Church shall arrange for the Inscription within a reasonable time.

B. *Payment.* Payment to the Church for an Inscription shall be in full and in such amount and in such manner as may be determined from time to time by the Council Payment for an Inscription is made without any reservation, conditions or restrictions and the monies may be used for any lawful purpose deemed proper by the Council.

C. *Eligibility for Inscription.* Inscriptions shall be for Eligible Persons only.

D. *Order of Inscription.* Inscriptions shall be placed on a Memory Wall in sequential order.

E. *No Refunds.* Inscriptions are deemed permanent and for the life of the Garden as presently situated. Upon Inscription, there shall be no refund of the purchase price, including any instance in which the Church discontinues the Garden. If the Garden is relocated, the Church may, but is under no obligation to move a Memory Wall to the relocated site, nor is the Church required to maintain the previous Memory Wall or to provide a substitute for the Memory Wall.

**Policy for the Opening and Closing of Niches in the Columbarium
Memorial Prayer Garden
Faith Lutheran Church Forest Lake, Minnesota**

There are 2 keys for opening and closing the niches in the Columbarium:

- One at Roberts Funeral Home
- One to be kept at Faith Church to be used only for emergencies-- Stored in custodial office with the toolbox and instructions.

For all inurnments, Roberts Funeral Home will be contacted and will be in charge of the opening and closing with a fee for the service. That same procedure will be followed if the Cremation Society of Minnesota, or another cremation company, handles a cremation and requests a niche for a family.

After the inurnment, a niche is not to be opened unless the family requests it be done. The funeral home that handled the original inurnment will then be contacted and be responsible for that request. If the Cremation Society or another cremation company handled the cremation and no funeral home is involved, the Prayer Garden Committee or Faith Church will be contacted to make arrangements.

When a funeral home has contacted the Prayer Garden Committee or Faith Church requesting a niche for a family, the Committee will provide a brass urn, the engraved plaque for the urn, a set of the documents governing the Columbarium, and the forms to be filled out and signed for the engraving on the granite faceplate.

If damage occurs to a granite faceplate when the columbarium is being opened or closed, the person who physically did the opening and closing is liable for those damages and/or replacement costs.

Memorial Prayer Garden Committee
Policy established December 17, 2009.