

CONSTITUTION & BY-LAWS

SAINT MARY'S CHURCH, PORTSMOUTH

A Parish in the Diocese of Rhode Island

ARTICLE I

TITLE

This corporation is and shall be known as Saint Mary's Church, Portsmouth (the "Parish"). The Parish is incorporated pursuant to a January 1868 Act of the Rhode Island General Assembly as subsequently amended.

ARTICLE II

MEMBER OF THE DIOCESE OF RHODE ISLAND

This Parish is a constituent member of the Diocese of Rhode Island (the "Diocese") and is organized for the worship of God in accordance with the doctrine, discipline, worship, and liturgy of The Episcopal Church (the "Church"). The Parish has acceded to the Constitution and Canons of the Diocese and acknowledges that it is subject to the Canons of the Church.

ARTICLE III

PURPOSE OF FOUNDERS

To fulfill the purpose of the Founders, it is hereby declared binding on the Parish that it will forever hold and keep Saint Mary's Church open equally to all people as a house of prayer in the Church. The pews in the church shall not be sold or rented.

ARTICLE IV

THE PARISH

Section 1. Membership. The Members of the Parish shall all be persons who have received the Sacrament of Holy Baptism and who are registered as members of the Parish. The Voting Members of the Parish shall be the rector or minister in charge and all Member communicants of eighteen years and over who are regular worshipers in the Parish church, who for six months preceding the annual meeting have been regular contributors to the support of the Parish, and who are not in arrears in the fulfillment of their pledges to support the Parish.

Section 2. Place of Meetings. The annual meeting and all special meetings of the Parish will be held at such place within the State of Rhode Island as shall be stated in the notice of meeting. The presiding officer of the Parish meeting will be the rector or priest in charge or, if that office is vacant, the Senior Warden or the Junior Warden in that order.

Section 3. Annual Meeting. The annual meeting of the Parish will be held, at the option of the vestry, on the third or fourth Sunday in January, or if circumstances require a different date, as soon thereafter as may be scheduled by the vestry, but in no event shall an annual meeting be held later than the end of February. At each annual meeting, elections (as hereinafter outlined) and such other business as may properly come before the meeting shall be conducted. In the event that an annual meeting is delayed beyond the scheduled Sunday in January, existing terms of office shall continue in effect until the annual meeting is held and required successors are elected to fill expiring terms of office holders.

Section 4. Elections. At each annual meeting the Voting Members shall fill by election vacancies on the vestry and shall elect delegates and alternates to the Convention of the Diocese (who shall also serve as delegates and alternates to the Deanery). When a vacancy occurs in the office of Senior Warden, Junior Warden, Parish Clerk, and Treasurer, those offices will also be filled by election. In the case of officers and vestry, a plurality will be necessary for election. Delegates to Deanery and Convention will be elected in accordance with Section 7. Members elected to vestry or as Parish officers, delegates, and alternates shall hold office until their successors are elected.

Section 5. Special Meetings. A special meeting of the Parish members for any purpose or purposes may be called by the rector, the wardens, or by the vestry and shall be called by the clerk, or in the event of his or her absence, disability, or failure to act, by such officer or person as the vestry may name, upon the written request of any five members of the vestry or of any twenty-one Voting Members of the Parish. Any such call shall state the purpose or purposes of the proposed meeting.

Section 6. Quorum. Members having twenty-one (21) of the votes entitled to be cast thereat will constitute a quorum for all meetings of the Members. If, however, such quorum will not be present at any such meeting, the Voting Members entitled to vote thereat will have power to adjourn the meeting from time to time until a quorum will be present. At such adjourned meeting at which a quorum will be present, any business may be transacted at the meeting as originally called. If adjournment is for more than thirty days, a notice of the adjourned meeting will be given to each Member entitled to vote at the meeting. When a quorum is present at any meeting, a majority vote of the Voting Members will decide any question brought before such meeting, unless the vote of a greater number is required by law, or unless the vestry has decided that because of the sensitivity of an issue, which decision may not be overridden, that issue must receive an affirmative vote of not less than seventy-five percent (75%) of the Voting Members at the meeting.

Section 7. Delegates to Convention. At each annual meeting the Voting Members shall elect delegates and alternates to the Convention of the Diocese in accordance with the Canons of the Diocese and, consistent therewith, in a manner recommended by the vestry and approved by the Voting members at the Annual Meeting. At least one of the delegates shall be a member of the Vestry, the other two must be Voting Members of the Parish, and delegates and alternates shall continue in office until their successors are elected. An alternate filling in for a delegate from the vestry does not have to be a member of the vestry. Any vacancy occurring in a delegation between annual meetings may be filled by election of the vestry. Each delegate and alternate shall be a Voting Member of the Parish,

Section 8. Voting Procedures. When requested by two Voting Members, the voting procedure in elections or upon any question shall be by secret ballot.

ARTICLE V

VESTRY

Section 1. Powers. The vestry shall act as the board of directors of the Parish and shall manage the temporal activities and affairs of the Parish.

Section 2. Number. The number of members of the vestry shall be fourteen (14), which number will include the rector, wardens, parish clerk, and treasurer. In any vote of the vestry that results in a seven – seven tie, the prevailing position shall be the position voted for by the rector unless the vote is on an issue pertaining to the rector’s terms of employment including compensation, housing, and/or benefits.

Section 3. Eligibility. Persons elected to the vestry must be Voting Members of the Parish.

Section 4. Election and Term. Three of the nine non-officer members of the vestry will be elected at each annual meeting of the Members to serve until the next annual meeting and thereafter until his or her successor will have been elected and qualified (unless there will no successor as a result of a decrease in the number of vestry members). Each non-officer vestry member will be elected to a three-year term. If a non-officer vestry member is elected for a second term, he or she will not be eligible for re-election for at least one year unless elected to an officer position. A member of the Parish elected to fill an unexpired non-officer vestry term of one year or less will be eligible to run for two consecutive regular three-year terms. Except for the rector, any and all of the members of the vestry may be removed with or without cause by vote of the Voting Members.

Section 5. Meetings. The vestry will meet no less than six times each year, and may hold meetings, both regular and special, either within or without the State of Rhode Island. Regular meetings of the vestry may be held without notice and at such time and at such place as will from time to time be determined by the vestry. Special meetings of the vestry may be called by the rector on two days notice to each director, either personally or by mail or by telegram. Special meetings will be called by the rector or parish clerk in like manner and on like notice on the written request of five members of the vestry. Meetings of the vestry may be held by means of telephone conference circuit and connection to such circuit will constitute presence at such meeting. Any member who fails to attend four meetings in a year will be subject to removal by vote of the vestry.

Section 6. Vacancies. Any vacancy occurring on the vestry may be filled by the affirmative vote of a majority of the remaining members of the vestry though less than a quorum of the vestry. A person elected to fill a vacancy will be elected until the next annual meeting at which time the Parish will fill by election the unexpired portion of the vacated term.

Section 7. Quorum. At all meetings of the vestry a majority of the full body of the vestry will constitute a quorum for the transaction of business, and the act of a majority of the members (directors) present at a meeting at which a quorum is present will be the act of the vestry, unless the act of a greater number is required by the Rhode Island non-profit corporation act, by the articles of incorporation, or by other provision within this Constitution & By-laws.

Section 8. Consent Vote. Any action required or permitted to be taken at a meeting of the vestry may be taken without a meeting if a consent in writing, setting forth the action so taken, will be signed by all members of the vestry.

ARTICLE VI

MINISTERS

Section 1. Vacancies. When the position of rector becomes vacant in the Parish, the wardens shall promptly notify and consult with the Bishop of the Diocese with respect to the appointment of an interim minister for the maintenance of divine services and the pastoral care of the congregation. The vestry shall also consult with the Bishop with respect to the procedure to be followed in the selection and call of a new rector.

Section 2. Election of the Rector. The election of a rector shall require an affirmative vote of three-fourths of the lay members of the vestry and two-thirds of the Trustees of the Glebe of Saint Mary's. No commitment shall be made by the vestry to anyone under consideration as a prospective rector, nor shall any formal call be issued until the name of the cleric under consideration as rector has been made known to the Bishop for his/her judgment. If the Bishop has not responded within thirty days, or such additional time as may be agreed upon, from the date of notice to the Bishop, the vestry may proceed with the commitment and call. In case the Bishop objects to the choice of the vestry, a second meeting of the vestry shall be held and the person first proposed can be elected only upon an affirmative vote of three-fourths of the lay members of the vestry. If the requisite three-fourths is not obtained, the same procedure shall be repeated for the election of another candidate.

Section 3. Selection of the Assistant Minister. In the selection of an assistant minister, the rector shall consult with the Bishop and the rector and Bishop shall agree upon a list containing names of qualified persons. The rector shall then nominate to the vestry, from the list, the name of the person chosen by the rector to serve as the assistant. The appointment of any assistant minister shall require an affirmative vote of nine (9) members of the entire vestry. The terms of employment of an assistant shall, subject to this Constitution & By-laws, be determined by the vestry and incorporated in an agreement. Any assistant minister shall serve at the pleasure of the rector, subject to the rights, if any, of such assistant under any agreement of employment.

Section 4. Non-stipendiary Assistants. The rector, with the approval of the Bishop and nine members of the vestry, may appoint one or more non-stipendiary assistants from among the clergy canonically resident in the Diocese, or any who are in good standing and who are currently licensed to officiate in the Diocese. Any non-stipendiary assistant shall serve at the pleasure of the rector.

ARTICLE VII

OFFICERS

Section 1. Number. The officers of the Parish shall consist of a rector, a senior warden, a junior warden, a clerk, and a treasurer who shall be members of the vestry. The vestry may from time to time elect or appoint such other officers, including one or more non-voting assistant officers, at it may deem necessary.

Section 2. Election and Term. Except for the rector, the officers of the Parish shall be elected by the Voting Members as follows:

- (a) a Senior Warden who shall serve for a term of three (3) years.
- (b) a Junior Warden who shall serve a term of three (3) years.
- (c) a parish Clerk and a Treasurer who shall each serve for a term of three (3) years.

The Parish Clerk and the Treasurer may be re-elected for multiple, consecutive 3-year terms. A Junior Warden may be elected to a follow-on term as Senior Warden but may not be elected to a follow-on term as Junior Warden nor to a follow-on term as a non-officer vestry member. A Senior Warden will not be eligible for re-election to the vestry for at least one year unless reappointed as Senior Warden in accordance with Section 8 following.

Each officer shall be elected until his or her successor will have been elected and will have qualified. Any officer may be removed by three-fourths vote of the vestry whenever, in its judgment, the best interests of the Parish shall be served thereby. Such removal will be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer will not of itself create contract rights.

Section 3. Rector. The rector shall be the president and principal executive officer of the Parish and, subject to the direction and supervision of the vestry, shall have general charge of the business, affairs, and property of the Parish. The rector, subject to the Rubrics of the Book of Common Prayer, the Constitution and Canons of the Church and the Diocese, and to the godly counsel of the Bishop, shall have control of the worship and spiritual jurisdiction of the Parish, and shall discharge the duties set forth in the Canons of the Church and of the Diocese. For the purposes of his or her office, and for the discharge of all functions and duties thereof, the rector shall, at all times, have access, use and control of the Parish Church and buildings. The rector shall preside and have the right to vote at any Parish or vestry meeting.

Section 4. Senior Warden. The senior warden shall be the senior lay officer of the Parish. He or she shall be advisor to the rector. In the absence of the rector, the senior warden shall perform the administrative duties of the office as set forth in the Canons of the Church and such other duties as may be assigned by the vestry.

Section 5. Junior Warden. The junior warden shall assist the senior warden and the rector in the affairs of the Parish. In the absence of both the rector and the senior warden, the junior warden shall assume the administrative authority of the Parish and perform the administrative duties of the office as set forth in the Canons of the Church and such other duties as may be assigned by the vestry.

Section 6. Parish Clerk. The parish clerk shall act as secretary of all meetings of the Parish and of the vestry. He or she shall, in general, perform the duties usually pertaining to the office of corporation secretary and such other duties as may be assigned by the vestry.

Section 7. Treasurer. The treasurer shall have the care and custody of the funds of the Parish, subject to the control of the vestry. The treasurer shall keep the books of account. He or she shall, in general, perform the duties usually pertaining to the office of treasurer and such other duties as may be assigned by the vestry.

Section 8. Vacancies. A vacancy in any office by reason of death, resignation, removal, or otherwise may be filled by the vestry for the unexpired portion of the term. Notwithstanding anything to the contrary herein, the vestry may, by majority vote, fill the unexpired term of a senior warden by electing (i) a former senior warden to complete the term, or (ii) electing the junior warden to the office of senior warden. In the event of (ii), the office of junior warden will be filled by election at the next annual meeting for a term equal to the unexpired portion of the former junior warden's term.

ARTICLE VIII

COMMISSIONS AND COMMITTEES

Section 1. Investment Committee. A committee of no less than three members of the Parish, one of whom shall be the Parish treasurer, one another member of the vestry, and the other(s) elected by the vestry annually in March to serve at the vestry's pleasure, using proper Business Methods (as hereinafter discussed), shall have the power, as delegated by the vestry, either directly or through an investment fiduciary, to buy and sell stocks, bonds and other securities and invest cash balances, for and in the name of the Parish, in such manner as to best secure the financial welfare of the Parish. The committee shall be guided by the vestry in its investment strategy.

Section 2. Finance Committee. A committee of the wardens, treasurer, and such other members as appointed by the vestry shall prepare annually for presentation to the vestry in December a budget for the following calendar year.

Section 3. Other. There shall be such other commissions and committees of the Parish as the vestry shall organize and supervise and which shall perform such duties as may be required of them by the vestry. Except where restricted by Canon Law or other provision of this Constitution & By-laws, the vestry may appoint any interested person or Member attending Saint Mary's as a member of any commission or committee.

ARTICLE IX

BUSINESS METHODS

Section 1. Transfer of Encumbrance. The Parish shall not transfer or encumber real property or any part thereof without first obtaining the written consent of the Bishop and the Standing Committee of the Diocese.

Section 2. Indebtedness. The Parish shall not become liable in respect of any indebtedness without first obtaining the written consent of the Bishop and the Standing Committee of the Diocese except for unsecured liabilities incurred in the ordinary course which in the aggregate do not exceed ten percent (10%) of the average annual receipts of the Parish during the preceding three years.

Section 3. Project Expenses. The vestry is empowered to draw on the treasury for current expenses as budgeted, and without calling a Parish meeting, to expend for unbudgeted projects an aggregate amount not to exceed ten percent (10%) of the annual Parish budget then in effect.

Section 4. Trust. All real and personal property held by or for the benefit of the Parish is held in trust first for the Parish and then for the Church and the Diocese.

Section 5. Endowment Funds. Stocks, bonds, and other securities (other than mutual funds) and cash balances representing endowment funds of the Parish shall be deposited with (i) a national or Rhode Island state chartered bank (deposit account, safe deposit account, or investment management account, as appropriately determined by the Investment Committee), (ii) the Diocesan Investment Trust, or (iii) such other agency approved by the Commission on Finance of the Diocese, and shall be held under agreements providing for at least two signatures for the withdrawal of funds. The Parish shall maintain records of all trust and permanent funds showing the source, date and terms governing the use of principal and income.

Section 6. Accounts and Audits. The Parish shall maintain books of account in order to provide the basis for satisfactory accounting. All accounts of the Parish shall be audited annually by a certified public accountant or by such audit committee as shall be approved by the Commission on Finance of the Diocese.

Section 7. Insurance. The Parish shall maintain adequate insurance coverage.

ARTICLE X

NOTICES

Section 1. How Delivered. Whenever under the provisions of the Rhode Island non-profit corporation act or of the articles of incorporation or of this constitution written notice is required to be given to any person, such notice may be given by mail, addressed to such person at his or her address as it appears in the records of the Corporation, with postage thereon prepaid, and such notice will be deemed to be delivered, if mailed, at the time when the same will be deposited in the United States mail in the State of Rhode Island. Mailed notice may be given as an individual mailing, as part of a multiple mailing, or as part of a bulletin or newsletter. Notice may also be given by telegram or personally by any director.

Section 2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the Rhode Island non-profit corporation act or the articles of incorporation or this constitution, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, will be deemed equivalent to the giving of such notice. Attendance of a person at a meeting will constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting to the transaction because the meeting is not lawfully called or convened.

ARTICLE XI

SEAL

The corporate seal will have inscribed upon it the name of the Parish and such other appropriate language as may be prescribed by the Rhode Island non-profit corporation act or from time to time by the vestry.

ARTICLE XII

FISCAL YEAR

The fiscal year of the Parish shall be the calendar year.

ARTICLE XIII

CONFLICTS OF INTEREST

If any member of the vestry, officer, employee, or committee or commission member of the Parish shall be interested either directly or indirectly, or shall be a director, officer, or employee of or have an ownership interest (other than the owner of less than one percent of the shares of a publicly-held corporation) in any firm or corporation interested directly or indirectly in any contract with the Parish, such interest will be disclosed to the vestry and set forth in the minutes of the vestry, and the member of the vestry, officer, or employee having such interest therein will not participate on behalf of the Parish in the authorization of any such contract.

ARTICLE XIV

INDEMNIFICATION

Section 1. Agreement of Parish. In order to induce the directors and officers of the Parish and the members of the Investment Committee to serve as such, the Parish adopts this by-law and agrees to provide the directors and officers of the Parish and members of the Investment Committee with the benefits contemplated hereby.

Section 2. Persons Entitled to Benefits. This paragraph will apply, and the benefits hereof will be available, to each member of the Investment Committee and each director and officer of the Parish who serves the Parish as such without the need for other proof that said persons have accepted the provisions of this Article.

Section 3. Definitions. As used herein, the following terms have the following respective meanings:

“Covered Act” means any act or omission by the Indemnified Person in the Indemnified Person’s official capacity with the Parish and/or Churchyard (herein referred to collectively as the Parish) and while serving as such or while serving at the request of the Parish as a member of the governing body, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

“Director” means a member of the vestry of the Parish.

“Excluded Claim” has the meaning set forth in Section 6 hereof.

“Expenses” means any reasonable expenses in connection with the defense of any claim made against the Indemnified Person for Covered Acts including, without being limited to, legal, accounting, or investigative fees and expenses (including the expense of bonds necessary to pursue an appeal of an adverse judgment).

“Indemnified Person” means (i) any member of the vestry or officer of the Parish who serves the Parish as director or officer, and (ii) any member of the Investment Committee.

“Loss” means any amount which the Indemnified Person is legally obligated to pay as a result of any claim made against the Indemnified Person for Covered Acts including, without being limited to, judgments for, and awards of, damages, amounts paid in settlement of any claim, any fine or penalty or, with respect to an employee benefit plan, any excise tax or penalty.

“Proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative.

Section 4. Indemnification. Subject to the exclusions hereinafter set forth, the Parish will indemnify the Indemnified Person against and hold the Indemnified Person harmless from any Loss or Expenses.

Section 5. Advance Payment of Expenses. The Parish will pay the Expense of the Indemnified Person at such time and from time to time as the Indemnified Person may request in advance of the final disposition of any Proceeding except to the extent that the defense of a claim against the Indemnified Person is undertaken pursuant to any directors’ and officers’ liability insurance (or equivalent insurance known by another term) maintained by the Parish. The advance payment of Expenses will be subject to the Indemnified Person’s agreement with the Parish (evidenced by the Indemnified Person’s acceptance of an advance payment or, if requested, a prior agreement in writing) to repay the sums paid by it hereunder if it is thereafter determined that the Proceeding involved an Excluded Claim or that the Indemnified Person was not entitled to indemnity by reason of the provisions of Section 9.

Section 6. Exclusions. The Parish will not be liable to pay any Loss or Expenses (an “Excluded Claim”):

- (a) With respect to a Proceeding in which a non-appealable judgment or other adjudication by a court of competent jurisdiction determines that the Indemnified Person is liable to the Parish (as distinguished from being liable to a third party) for: (i) any breach of the Indemnified Person’s duty of loyalty to the Parish or its members; (ii) acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law; (iii) any transaction from which the Indemnified Person derived an improper personal benefit; or
- (b) If a final, non-appealable judgment or other adjudication by a court of competent jurisdiction determines that such payment is unlawful.

Section 7. Notice to Parish; Insurance. Promptly after receipt by the Indemnified Person of notice of the commencement or of the threat of commencement of any Proceeding, the Indemnified Person will, if indemnification with respect thereto may be sought from the Parish under these Canons, notify the Parish of the commencement thereof. Failure to promptly notify the Parish will not adversely affect the Indemnified Person's right to indemnification hereunder unless and only to the extent that the Parish is materially prejudiced in its ability to defend against the Proceeding by reason of such failure. If, at the time of the receipt of such notice, the Parish has any directors' and officers' liability insurance in effect, the Parish will give prompt notice of the commencement of such Proceeding to the insurer in accordance with the procedures set forth in the policy or policies in favor of the Indemnified Person. The Parish will thereafter take all the necessary or desirable action to cause such insurer to pay, on behalf of the Indemnified Person, all Loss and Expenses payable as a result of such Proceeding in accordance with the terms of such policies.

Section 8. Indemnification Procedures.

- (a) Payments on account of the Parish's indemnity against Loss will be made by the treasurer of the Parish except if, in the specific case, a determination is made that the indemnification of the Indemnified Person is not proper in the circumstances because such Loss results from a claim which is an Excluded Claim. If the Parish so determines that the Loss results from an Excluded Claim (although no such determination is required by the Parish hereunder prior to payment of a Loss by the treasurer), the determination shall be made:
- (i) By the vestry by a majority vote of a quorum consisting of members not at the time parties to the Proceeding; or
 - (ii) If a quorum cannot be obtained for purposes of clause (i) of this subparagraph (a), then by a majority vote of a committee of the vestry duly designated to act in the matter by a majority vote of the full vestry (in which designation members who are parties to the Proceeding may participate) consisting solely of three or more directors not at the time parties to the Proceeding; or
 - (iii) By independent legal counsel designated: (A) by the vestry in the manner described in clause (i) of this subparagraph (a), or by a committee of the vestry established in the manner described in clause (ii) of this subparagraph (a), or (B) if the requisite quorum of the full Council cannot be obtained therefore and a committee cannot be established, by a majority vote of the full vestry (in which designation members who are parties to the Proceeding may participate). If made, any such determination permitted to be made by this subparagraph (a) will be made within 60 days of the Indemnified Person's written request for payment of a Loss.
- (b) Payment of an Indemnified Person's Expenses in advance of the final disposition of any Proceeding will be made by the treasurer of the vestry except if, in the specific case, a determination is made pursuant to Section 8 (a) above that the indemnification of the Indemnified Person is not proper in the circumstances because the Proceeding involves an Excluded Claim.

(c) The Parish will have the power to purchase and maintain insurance on behalf of any Indemnified Person against liability asserted against him or her with respect to any Covered Act, whether or not the Diocese would have the power to indemnify such Indemnified Person against such liability under the provisions of this paragraph. The Parish will be subrogated to the rights of such Indemnified Person to the extent that the Parish has made any payments to such Indemnified Person in respect to any Loss or Expense as provided herein.

Section 9. Settlement. The Parish will have no obligation to indemnify the Indemnified Person under this paragraph for any amounts paid in settlement of any proceeding effected without the Parish's prior written consent. The Parish will not unreasonably withhold or delay its consent to any proposed settlement. If the Parish so consents to the settlement of any Proceeding, or unreasonably withholds or delays such consent, it will be conclusively and irrebuttably presumed for all purposes that the Loss or Expense does not constitute an Excluded Claim. If the Parish reasonably withholds its consent solely on the ground that the Proceeding constitutes an Excluded Claim, the Indemnified Person may accept the settlement without the consent of the Parish, without prejudice to the Indemnified Person's rights to indemnification in the event the Parish does not ultimately prevail on the issue of whether the proceeding constitutes an Excluded Claim.

Section 10. Rights Not Exclusive. The rights provided hereunder will not be deemed exclusive of any other rights to which the Indemnified Person may be entitled under any agreement, vote of disinterested trustees or otherwise, both as to action in the Indemnified Person's official capacity and to action in any other capacity while holding such office, and will continue after the Indemnified Person ceases to serve the Parish as an Indemnified Person.

Section 11. Enforcement.

(a) The Indemnified Person's right to indemnification hereunder will be enforceable by the Indemnified Person in any court of competent jurisdiction and will be enforceable notwithstanding that an adverse determination has been made as provided in Section 8 hereof.

(b) In the event that any action is instituted by the Indemnified Person under the Canons, the Indemnified Person will be entitled to be paid all costs and expenses, including reasonable attorneys' fees, incurred by the Indemnified Person with respect to such action, unless the court determines that each of the material assertions made by the Indemnified Person as a basis for such action was not made in good faith or was frivolous.

Section 12. Severability. If any provision of this Article is determined by a court to require the Parish to perform or to fail to perform an act which is in violation of applicable law, this Article shall be limited or modified in its application to the minimum extent necessary to avoid a violation of law, and, as so limited or modified, this Article shall be enforceable in accordance with its terms.

Section 3. Successor and Assigns. The provisions of this Article will be (a) binding upon all successors and assigns to the Parish (including any transferee of all or substantially all of its assets) and (b) binding on and inure to the benefit of the heirs, executors, administrators, and other personal representatives of the Indemnified Person.

Section 14. Amendment. The provisions of this Article XIV will be effective as to an Indemnified Person without the prior written consent of the Indemnified Person and, in any event, will not be effective as to any Covered Act of the Indemnified Person occurring prior to the amendment or termination.

ARTICLE XV

AMENDMENTS

This constitution may be amended by a three-fifths majority of the Voting Members present and voting at two consecutive annual or special meetings of the Parish called for that purpose, and these meetings may be held in any order of sequence. No proposed amendments shall be considered or affirmatively acted upon by any meeting unless copies of the proposed amendments are distributed to members at least ten days prior to the annual or special meeting.

ARTICLE XVI

CONSTITUTION & BY-LAWS EFFECTIVE

This Constitution & By-laws amends and restates the “Constitution of Saint Mary’s Church, Portsmouth, Rhode Island” dated January 27, 1967, and it shall become effective upon its approval according to the provisions of ARTICLE XV herein.

(Adopted at consecutive Parish Meetings held on October 21, 1991 and November 4, 1991, amended at consecutive Parish Meetings held on October 1, 2000, and October 8, 2000, and amended at consecutive Parish Meetings held on December 12, 2004, and January 9, 2005.)