

NON-PROFIT CORPORATIONS – INSTRUCTIONS AND SAMPLES

ORGANIZATION OF CALIFORNIA NONPROFIT, NONSTOCK CORPORATIONS

California nonprofit, nonstock corporations organized for religious, charitable, social, educational, recreational or similar purposes are formed under the Nonprofit Corporation Law, commencing with California Corporations Code Section 5000.

PLEASE NOTE: Nonprofit corporations are subject to California corporation franchise tax requirements until such time as they formally dissolve **unless** a determination of exemption is issued by the Franchise Tax Board. Application for a determination of exemption must be made **after incorporation** by mailing the attached Exemption Application (FTB Form 3500), along with an endorsed copy of the Articles of Incorporation and any other supporting documentation, to the Franchise Tax Board, Post Office Box 942857, Sacramento, California 94257-4041. FTB Form 3500 can be obtained from the Franchise Tax Board by calling 1-800-338-0505 or you can download the form from Franchise Tax Board's Internet Website at <http://www.ftb.ca.gov> For information regarding state tax exemption, contact the Franchise Tax Board at (916) 845-4171. Questions regarding franchise tax requirements must be directed to the Franchise Tax Board.

The three primary types of nonprofit corporations, namely, religious, public benefit and mutual benefit, are described below.

- A. A corporation organized to operate a church or to be otherwise structured for primarily religious purposes is a nonprofit **RELIGIOUS** corporation.
- B. A corporation organized primarily for charitable purposes and which plans to obtain state tax exempt status under Section 23701d of the Revenue and Taxation Code and/or federal tax exempt status under Section 501(c)(3) of the Internal Revenue Code or organized to act as a civic league or a social welfare organization and which plans to obtain state tax exempt status under Section 23701f of the Revenue and Taxation Code and/or federal tax exempt status under Section 501(c)(4) of the Internal Revenue Code is a nonprofit **PUBLIC BENEFIT** corporation.
- C. A corporation for other than religious, charitable, civic league or social welfare purposes and planning to obtain tax exempt status under provisions other than Sections 23701d, 23701f, 501(c)(4) or not planning to be tax exempt at all is a nonprofit **MUTUAL BENEFIT** corporation.

The attached samples have been drafted to meet minimum statutory requirements. The samples may be used as a guide in preparing documents to be filed with the Secretary of State. You must determine the type of nonprofit corporation to be formed and follow the applicable sample. It is, however, suggested that you seek private counsel for advice regarding the proposed corporation's specific needs, which may require the inclusion of special permissive provisions.

THE FEE FOR FILING ARTICLES OF INCORPORATION FOR A NONPROFIT, NONSTOCK CORPORATION IS \$30.00.

The original and at least four copies of the Articles of Incorporation should be included with your submittal. The Secretary of State will certify two copies of the filed Articles of Incorporation without charge, **provided that the copies are submitted with the original at the time of filing**. Any additional copies submitted with the original will be certified upon request and payment of the \$8.00 per copy certification fee.

A \$15.00 **special handling fee** is applicable for expedited processing of documents delivered in person at the public counter in the Sacramento Headquarters Office or in any of the branch offices located in Fresno, Los Angeles, San Diego and San Francisco. The \$15.00 special handling fee must be remitted by separate check for each submittal and will be **RETAINED WHETHER THE DOCUMENTS ARE FILED OR REJECTED**. The special handling fee does not apply to documents submitted by mail to the Sacramento office.

When forming a new corporation you may need to contact one or more of the following agencies for additional information:

- ◆ The Franchise Tax Board - for information regarding **exemption** and/or **franchise tax** requirements.
- ◆ The Board of Equalization - for information regarding **sales tax** and/or **use tax** liability.
- ◆ The Department of Justice - for information regarding **charitable trust** requirements.
- ◆ The Employment Development Department - for information regarding **disability unemployment insurance tax**.
- ◆ The Director of Industrial Relations, Division of Worker's Compensation - for information regarding **workman's compensation** requirements.

- The city and/or county clerk and/or recorder where the principal place of business is located - for information regarding business licenses, fictitious business names (if doing business under a name other than the corporate name), and for specific requirements regarding zoning, building permits, etc. based on the activities of the corporation.
- The Internal Revenue Service (IRS) - for information regarding **federal employee identification numbers**.

The Secretary of State does not license corporations or business entities. For licensing requirements, please contact the city and/or county where the principal place of business is located and/or the state agency with jurisdiction over the activities of the organization.

Samples are also available for the incorporation of California stock corporations. These samples include documents to form general stock, professional and close corporations.

Documents can be mailed or hand delivered for over the counter processing to the Sacramento Headquarters Office at:

Business Programs Division	(916) 653-2318
1500 11 th Street	
Sacramento, CA 95814	
Attention: Document Filing Support Unit	

OR

can be hand delivered for over the counter processing to any of the branch offices located in:

- Fresno (559) 243-2100
2497 West Shaw, Suite 101
Fresno, CA 93711
- Los Angeles (213) 897-3062
The Ronald Reagan Building
12th Floor South Tower, Room 12513
300 South Spring Street
Los Angeles, CA 90013-1233
- San Diego (619) 525-4113
1350 Front Street, Suite 2060
San Diego, CA 92101-3690
- San Francisco (415) 557-7047
455 Golden Gate, Suite 7300
San Francisco, CA 94102-3660

- NOTE:**
- Cash is not accepted in the Los Angeles or San Diego branch offices.
 - Duplicate original documents must be submitted when filing with any of the branch offices.
 - Branch offices do not process mailed in documents.

INSTRUCTIONS:

To incorporate you may prepare documents following the applicable sample provided once it has been determined which type of nonprofit corporation is to be formed. Documents are to be typed on one side of the paper only (samples have been printed using both sides of the page to conserve paper, with letters in dark contrast to the paper. Documents submitted which would produce poor microfilm will be returned unfiled. Articles of Incorporation may be drafted to include all required provisions and any statutorily permissive provisions including initial directors. The Secretary of State does not have samples containing permissive provisions.

Article I - is to be completed with the name of the corporation exactly as the name is to appear on the records of the Secretary of State.

Article II A -

Mutual Benefit Corporation - has been taken directly from the California Corporations Code as is required by law and should not be modified when drafting documents.

Public Benefit Corporation - has been taken directly from the California Corporations Code as is required by law and should only be modified to include the applicable purpose description (preceding the word "purposes" in the second sentence, the word "charitable" or the words "public and charitable" may be substituted for the word "public").

Religious Corporation - has been taken directly from the California Corporations Code as is required by law and should only be modified to substitute the word "primarily" for the word "exclusively" in the second sentence.

Article II B - is to be completed with a statement as to the specific purpose of the corporation.

Article III - is to be completed with the name and California address, or physical location, of the agent for service of process. The designated agent, individual or corporation, must agree to accept process on behalf of the corporation prior to designation. A proposed corporation cannot designate itself as agent for service of process. When designating another corporation as agent, the agent corporation must have on file, with the Secretary of State, a statement pursuant to Section 1505, California Corporations Code. When a corporate agent is used, the address of the designated corporation is not to be included in the articles.

Article IV and Article V (where applicable) - are statements required by the Franchise Tax Board to be included in the Articles of Incorporation before exemption will be granted.

The Articles of Incorporation must be originally signed by an incorporator unless directors are named in the articles. If directors are named in the articles, each person named must sign and acknowledge the document. The name(s) of the person(s) signing must be typed directly below the signature(s).

The original and at least four copies of the completed documents are then mailed or hand delivered to the Secretary of State, together with the applicable fee. (If documents are being hand delivered for filing in the San Francisco, Fresno, Los Angeles or San Diego office, a duplicate original is also required.)

To expedite processing, Articles of Incorporation submitted by mail should be accompanied by a self-addressed envelope and a letter referencing the proposed corporate name as well as your own name, telephone number and return address.

ARTICLES OF INCORPORATION

I
The name of this corporation is _____ (NAME OF CORPORATION) _____

II
A. This corporation is a nonprofit **PUBLIC BENEFIT CORPORATION** and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for:
 () **public** purposes.
 or () **charitable** purposes.
 or () **public and charitable** purposes.

B. The specific purpose of this corporation is to _____

III
The name and address in the State of California of this corporation's initial agent for service of process is:

Name _____
Address _____
City _____ State **CALIFORNIA** Zip _____

IV
A. This corporation is organized and operated exclusively for **charitable** purposes within the meaning of Section 501(c)(3), Internal Revenue Code.
B. No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

V
The property of this corporation is irrevocably dedicated to **charitable** purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for **charitable** purposes and which has established its tax exempt status under Section 501(c)(3), Internal Revenue Code.

(Signature of Incorporator)
(Typed Name of Incorporator), Incorporator