

LEGAL SERVICES OF EASTERN MISSOURI

COMMUNITY ECONOMIC DEVELOPMENT
MICROENTERPRISE PROGRAM

NONPROFIT CHECKLIST

WHAT IS A NONPROFIT?

A nonprofit is an organization that uses its funds for a public purpose. A nonprofit may not use its funds to financially benefit its members. Nonprofits are founded to serve a public humanitarian or environmental need. The nonprofit's resources are used in support of programs designed to help fulfill the goals and purpose of the organization. The founder and board members cannot personally benefit from the organization. Nonprofits are controlled by a board of directors and must be transparent as it is a public charity. The checklist will cover the following:

- Before You Form a Nonprofit
- Incorporation
- Tax Identification Numbers
- Bylaws
- Next Steps

BEFORE YOU FORM A NONPROFIT

DEVELOP A BUSINESS PLAN

Business plans are not a legal requirement. However, the goals of the nonprofit should clear before beginning any significant work. A written business plan helps you share your nonprofit goals with people who might want to support it. Usually these people are lenders, donors, suppliers, management, employees, and professionals (i.e. lawyers). Business plans should include the following information:

- An executive summary
- A description of the services, programs, or products being offered
- A summary of the business history, management/structure, and goals
- A profile of the Nonprofit's Mission
- A need assessment and plan for meeting those needs.
- Strategies for advertising and marketing
- A list of assets, liabilities, budgets, and timelines
- A forecast of fundraising

The following agencies can help draft business plans:

- Small Business Administration: <https://www.sba.gov/business-guide/plan-your-business/write-your-business-plan>
- SCORE: <https://www.score.org/getstarted> <https://www.score.org/resource/business-plan-template-startup-business>

DEVELOP A STRATEGIC PLAN

A strategic plan takes the information provided in the business plan and explains how the desired outcomes will be achieved. A strategic plans should include:

- A mission statement
- An outline of goals, objectives, and activities
- An assessment of current resources, and
- A strategic analysis.

For a guide on strategic planning, visit <https://www.wanonprofitinstitute.org/planning/>

BEFORE YOU FORM A NONPROFIT

RECRUIT A BOARD OF DIRECTORS

In Missouri, nonprofits are required to have a minimum of 3 board members. The recommended number of board members is 5 to 7. There is no limit to the number of board members. However, keeping the number small, under 10, would be best. Board members should be unrelated individuals.

RECRUIT OFFICERS

In Missouri, nonprofits are required to have at a president, a treasurer, and a secretary.

These individuals can also be board members.

CHOOSE A BUSINESS NAME

Visit the [Missouri Secretary of State's website](#) and choose "search for a business" to see if anyone has already registered your business name,

If your business name is available, you can reserve it for up to 60. You can reserve the name again for another 60 days up to a maximum of 180 days. Fill out the following application and send it to the Secretary of State's office to reserve your name: <http://s1.sos.mo.gov/CMSImages/Business/be1.pdf>.

If you are ready to register your nonprofit, you can opt to do that instead of reserving a name. If you still have steps to prepare, reserving a name might be a good option for your future nonprofit.

INCORPORATION

ARTICLES OF INCORPORATION


Articles of Incorporation creates your nonprofit corporation and registers it with the State of Missouri. Work with an experienced attorney when you file your Articles of Incorporation. Some important requirements for nonprofit Articles of Incorporation:

- **Classification.** The Articles of Incorporation must state whether the company is a public benefit corporation or a mutual benefit corporation. Public benefit corporations are the only option for tax exempt status.
- **Duration.** A nonprofit can be organized for period of time or forever.
- **Registered Agent.** The person who will receive important legal documents for the nonprofit.
- **Dissolution.** In case the business closes you must provide a plan to give the nonprofit property to another 501(c)(3) nonprofit if want to be tax-exempt.
- **Purpose.** The nonprofit must have an allowed purpose tax-exempt status.
- **Income.** A nonprofit cannot give any part of its income to the members, directors, officers, or a private person.
- **Legislative or Political Activities.** Nonprofits activities cannot involve lobbying efforts and are forbidden from helping political campaigns.

APPLICATION

You can apply by submitting the form in-person, by mail, or electronically.

- In-person or by mail costs \$25 and should be sent to the address on the form.
<http://s1.sos.mo.gov/CMSImages/Business/corp52.pdf>
- Electronic applications cost \$25 and on the Missouri Secretary of State's website.
<https://bsd.sos.mo.gov/>



Donation

TAX IDENTIFICATION NUMBERS

OBTAIN A FEDERAL EMPLOYER IDENTIFICATION NUMBER

This is the federal tax identification number that will be linked with your business. The Federal Employer Identification Number (EIN) is used when you file your taxes. You obtain this number after you incorporate your business.

This is a free service provided by the IRS. Please do not pay anyone to obtain this for you! You can apply online at: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>

OBTAIN A MISSOURI EMPLOYER TAX IDENTIFICATION NUMBER

This is the Missouri state tax identification number that will be linked with your business. This is not required for all businesses but is for many. Use the questionnaire on the [Missouri Department of Revenue website](#) to determine your requirements.

You can apply for free at: <https://dor.mo.gov/register-business/>



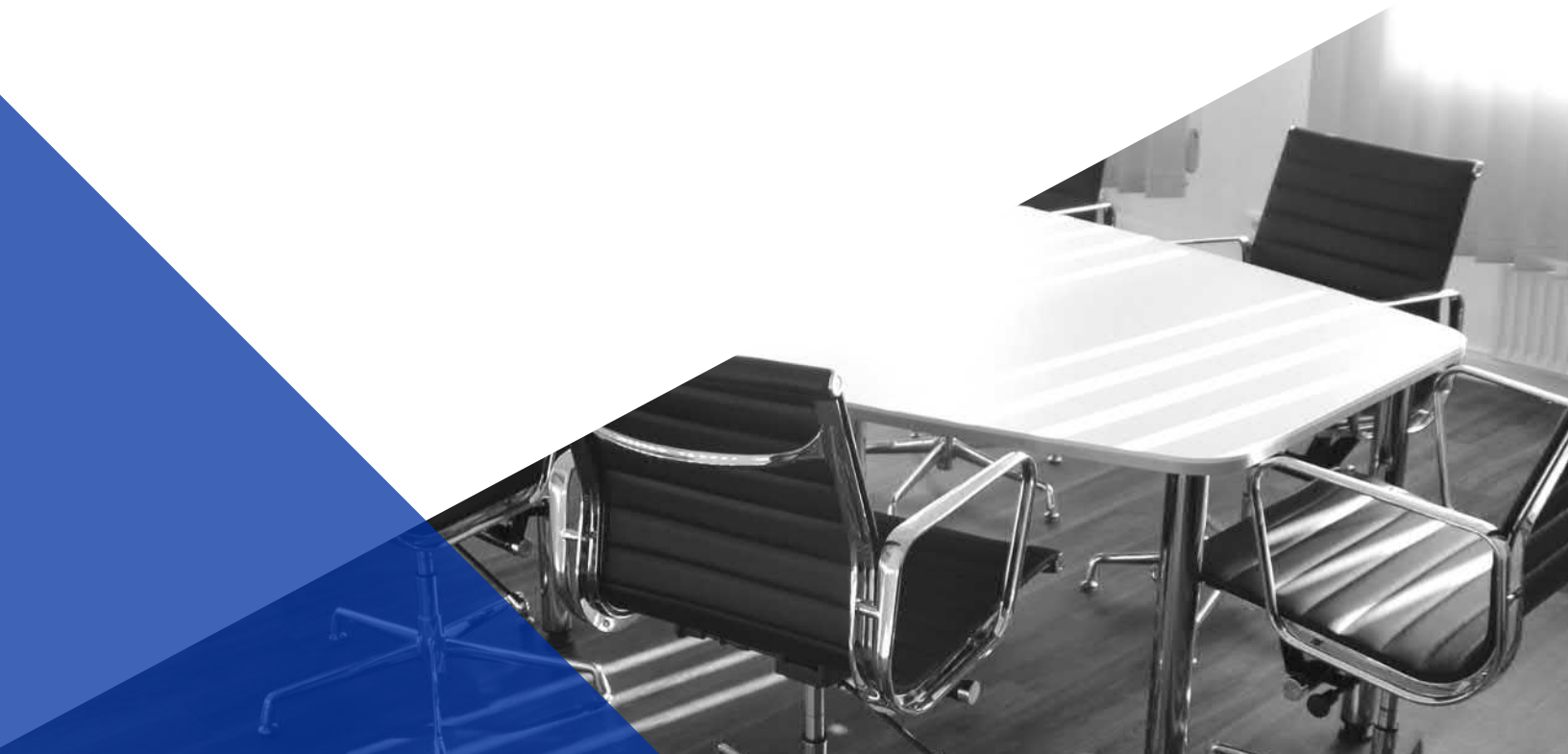
BYLAWS

OBTAIN A FEDERAL EMPLOYER IDENTIFICATION NUMBER

Bylaws are the rules for the organization. Bylaws for a nonprofit cover many topics including:

- Purposes
- Membership
- Board of Directors
- Officers
- Finances
- Document Retention Policies
- Insurance
- Conflicts of Interest
- Amendments

You should ask a lawyer to help write the Bylaws.



NEXT STEPS

501(C)(3) STATUS

Nonprofits organized and run solely for religious, charitable, scientific, public safety testing, literacy, amateur sports, or educational purposes can get 501(c)(3) status. You should work with an experienced lawyer to file for 501(c)(3) tax-exempt status. Please request the Types of Nonprofit 501(c)(3) Organizations Checklist for additional information on receiving 501(c)(3) designation.

GET A BUSINESS LICENSE

Ask a lawyer to see if you need a state, county or city business license.

PROTECT YOURSELF

There are many forms of protection for nonprofits, including:

- Open a bank account for the nonprofit. If you mix your own money with that of the nonprofit's, you can be personally responsible.
- Get commercial insurance.
- Use "(nonprofit name)" on all marketing materials.
- Only do business as the nonprofit.
 - Sign the nonprofit's name on all contracts. Example of how to sign the LLC's name on a contract:
ABC Nonprofit
(Signature)
John Doe, President of ABC Nonprofit
Month, Day, Year

REGULATORY REQUIREMENTS

Make sure you are operating your nonprofit according to the law. Check to see if there are zoning restrictions where your business is.

NEXT STEPS

CONTRACTS

A contract is a written or spoken exchange of promises to do or not do something. Having contracts in writing protects your nonprofit.

- There is less room for misunderstanding.
- Expectations are clear.
- Promises are taken more seriously when put in writing.

Spoken promises can be enforced. But, it is harder to show that a party promised to do something and then failed to do, since nothing was written down. Make sure you understand the contract before you sign. Sign the agreement in the name of the nonprofit, not your own name.

COMMERCIAL LEASES

It is important to read commercial leases carefully. Consult with a lawyer if you can. Know what your responsibilities will be under the terms of the lease:

- Base Rent: will it be \$X/month, \$X/sq. foot, % gross sales?
- Who pays for utilities, property taxes, maintenance, and/or improvements?
- Usually the landlord is responsible for structural repairs and Tenant for non-structural.
- Who is responsible for things like snow and ice removal?
- What about repairs of expensive items like an HVAC system?

You should get insurance including general liability and casualty to protect people and property.

If there are pre-existing problems, you may consider having the landlord state that there are no pre-existing environmental problems in the lease (e.g., asbestos, hazardous substances).

Landlords sometimes ask for a personal guarantee from the owner of a business in a commercial lease. Try to remove this clause.

Look out for confusing language in the lease and make sure you understand all terms before signing.

NEXT STEPS

EMPLOYEES

Ask if you will hire employees or independent contractors. The main difference between an employee and an independent contractor is: who has the right to control when, where, and how work is completed? If you, the employer, want to be able to control when, where, and how work is to be completed, you will need to make your workers as employees.

After deciding whether you will hire employees or independent contractors, ask a lawyer for help understanding the laws for both types and for help filing the right paperwork.

Note: Missouri employees are at-will. This means that you can fire them or they can quit without cause, unless it is for a discriminatory reason.

INTELLECTUAL PROPERTY

Intellectual Property refers to ways to protect your ideas. Some protections include:

- Trademarks
- Copyright
- Trade Secrets
- Patents

For more information, please ask to see the Intellectual Property Checklist.

For nonprofits, intellectual property is often an issue for websites. To help protect yourself, get a written contract with the host of the website. Get an assignment agreement if someone else makes your website or material for it or work with an attorney for a work-for-hire agreement before contracting website services. Use your own pictures and material on the website when possible. Otherwise, get written permission from the author or creator of the materials.

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Disclaimer:

Legal Services of Eastern Missouri's Community Economic Development Microenterprise Program made this guide to educate on Microenterprise-related legal topics. This guide is for general information purposes only. While we try to make it as accurate and up-to-date as possible, guidance can and will change. Your own situation may be fact-specific and we can only give legal advice to those we have current representation agreements with. Nothing in this guide constitutes legal advice from Legal Services of Eastern Missouri.

If you have any questions, please speak to a lawyer. This guide is not an advertisement or solicitation.

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Fees Disclaimer: Costs of filings listed in this guide are subject to change. Please check with the State of Missouri for most up-to-date filing costs.