

Instructions C011i

Articles of Incorporation – Nonprofit Corporation

ARIZONA CORPORATION COMMISSION

Corporations Division
1300 West Washington Street
Phoenix, Arizona 85007
www.azcc.gov
(602) 542-3026



General Information

Who can form a corporation? One or more persons can form an Arizona corporation by filing Articles of Incorporation with the Arizona Corporation Commission. These persons are called "incorporators." A.R.S. § 10-3201. "Person" includes individuals and entities. A.R.S. § 10-3140(41). "Entity" means domestic or foreign corporations, limited liability companies, and other associations – see A.R.S. § 10-3140(26) for a full definition. Statutes are available on the Arizona Legislature's website, www.azleg.gov, by following the link for Arizona Revised Statutes.

What are the name requirements? The examiner will determine if the corporation name to be used complies with the statutory requirements, but you can review the name criteria, check for name availability and, if desired, submit a name reservation application by using our website at www.azcc.gov/divisions/corporations/filings/namingpolicy.asp. Reserving the name is not required. Web access is available to the public at our Phoenix and Tucson offices.

The nonprofit corporate name must satisfy the requirements of A.R.S. §§ 10-3401, 10-3301, and/or 10-11506 and must not conflict with the requirements for professional corporations (A.R.S. § 10-2215) or other corporations (A.R.S. §§ 10-1506 and 10-401) or other limited liability companies (A.R.S. § 29-602). Statutes are available on the Arizona Legislature's website, www.azleg.gov, by following the link for Arizona Revised Statutes. Note that other requirements may apply if you are forming a nonprofit corporation under Chapter 19 of Title 10, Arizona Revised Statutes (cooperatives).

If the corporation name contains any of the following words, prior written approval must be obtained from the Arizona Department of Financial Institutions before registration is allowed: Bank; Banker; Banking; Banc; Banco; Banque; Credit Union; Deposit;

Savings Association; Building Association; Savings and Loan Association; Building and Loan Association; Savings Bank; Thrift; Trust; or Trust Company. See A.R.S. §§ 10-401, 10-1506.

Trade name – if you are the owner of a trade name registered with the Secretary of State's office that is identical to the corporation name you wish to use, you must complete and attach to the Application To Reserve Corporation Name a Trade Name Declaration form M003. Forms are available on our website at <http://www.azcc.gov/divisions/corporations/forms/formsindex.asp>.

How do I form a 501(c)(3) or other type of tax exempt corporation?

"501(c)(3)" and other section 501 subparagraphs refer to Internal Revenue Service code provisions or regulations. Only the Internal Revenue Service can grant tax exempt status concerning federal taxation. You do not form a tax exempt corporation – you form a nonprofit corporation and then apply to the IRS for tax exempt status. The Internal Revenue Service requires that certain language be in the Articles of Incorporation before it will grant tax exempt status. The form provided by the Arizona Corporation Commission complies only with the minimal requirements of Arizona law and does not include any IRS language. If you intend to apply for tax exempt status after the corporation is formed, you should determine what language is required by the IRS and prepare your own Articles of Incorporation. It is advisable to seek the advice of your tax or legal professional and/or the IRS (www.irs.gov) before you form your corporation. The Commission staff cannot give you legal or tax advice, and cannot tell you what language to include in your Articles.

What is a Statutory Agent?

A Statutory Agent is an individual or a business entity that the corporation appoints for the purpose of accepting service of process (lawsuit papers or legal documents) for the corporation. The agent is called a "statutory" agent

because a statute requires that the corporation appoint someone for this purpose. See A.R.S. § 10-3501. If, for example, a lawsuit is filed against the corporation, the Statutory Agent will be the one who is served (receives the papers on behalf of the corporation), and then the Statutory Agent should give the papers to the corporation. Note that the law requires that the corporation maintain a statutory agent with a valid address on the records of the Arizona Corporation Commission at all times, and the failure to do so will subject the corporation to being administratively dissolved. See A.R.S. §§ 10-3501, 10-3502, 10-11420. Official notices from the Arizona Corporation Commission will be sent to the statutory agent's address.

Who can be the Statutory Agent?

A Statutory Agent can be an individual, or an Arizona corporation or LLC, or a foreign corporation or LLC that is authorized to transact business in Arizona. A corporation cannot be its own Statutory Agent – it must appoint someone apart from itself. For example, the corporation can appoint one of its directors or officers in his or her capacity as an individual as the statutory agent, but cannot appoint the corporation itself as the statutory agent.

If an individual is appointed as the statutory agent, that individual must be a permanent, full-time resident of the State of Arizona and must have a permanent, full-time physical or street address in the State of Arizona. The mailing address, if any, of that individual statutory agent must also be in Arizona.

The statutory agent must accept the appointment in writing. The statutory agent can accept the appointment by completing and submitting the Statutory Agent Acceptance form M002 found on our website at:

<http://www.azcc.gov/divisions/corporations/forms/formsindex.asp>. If the statutory agent is an entity, an authorized agent of that entity can sign the acceptance. An authorized agent is anyone given authority to sign for that entity.

What are bylaws, and do I file them?

The corporation is required to adopt bylaws. Bylaws are written rules that govern how the corporation operates internally, such as how the Board of Directors will be elected and what votes are required for a particular action. Bylaws can have any provision in them that is not prohibited by law. See A.R.S. § 10-3206. The Arizona Corporation Commission does not have a form for bylaws, and Commission staff cannot advise you concerning the content of bylaws. **DO NOT FILE** bylaws with the Arizona Corporation Commission.

How do I complete the member information?

A nonprofit corporation must state whether or not it will have members. A.R.S. § 3202. "Member" means any person that the articles of incorporation or bylaws give the right to vote for the election of a director or directors. See the full definition at A.R.S. § 3140(37).

Is publication of the Articles required?

Yes. See A.R.S. § 10-3203. **DO NOT PUBLISH UNTIL THE COMMISSION APPROVES THE DOCUMENT FOR FILING.** The approval letter you will receive from the Arizona Corporation Commission will contain information on how to publish.

When is the corporation formed?

If no date is specified – if no delayed date is specified in the Articles of Incorporation, and if the Articles of Incorporation meet all statutory filing requirements and all fees are paid, the corporation is formed on the date the Articles were delivered to the Arizona Corporation Commission.

If a delayed effective date or time or both is specified – if the Articles of Incorporation meet all statutory filing requirements and all fees are paid, the Articles would be effective on the specified time and date. If a delayed date is specified, but no time is given, then the time used will be 12:01 a.m. Mountain Standard Time. A delayed effective date may not be later than the ninetieth (90th) day after the date the Articles are delivered to the Commission for filing.

If all filing requirements were not met, the Arizona Corporation Commission will send notice that additional information and/or fees are required. You will have 30 days from the date of that notice in

which to submit the requested information and/or fees. If the requested information and/or fees are provided within that 30 days and all statutory filing requirements are met, then the corporation will be considered formed as of the date the original Articles were first delivered to the Commission. If the requested information and/or fees are not provided within that 30 days or do not comply with statutes, then the corporation terminates as of the 31st day after the date of the notice requesting additional information and/or fees.

What other documents are required?

Corporations are required to submit a Certificate of Disclosure. Find the form on our website at <http://www.azcc.gov/divisions/corporations/forms/formsindex.asp>.

Filing fee. The filing fee is \$40.00. For expedited processing (read the next paragraph), add \$35.00 to the filing fee. All fees are nonrefundable. See A.R.S. § 10-3122.

Processing time. Processing times are posted on our website each Monday at www.azcc.gov/Divisions/Corporations. For expedited (faster) processing, payment of the expedite fee plus payment of the filing fee must be submitted. See A.R.S. § 10-3122. The expedite fee is \$35.00. See Decision No. 68008, July 22, 2005, Docket No. AC-00000A-05-0488. The Arizona Corporation Commission does not currently offer same day or next day service.

Instructions

Number 1. Give the exact name of the corporation, including exact spelling, punctuation, and any corporate identifier such as Inc. or Incorporated, etc. Please refer to "What are the name requirements" under the General Information section above.

Number 2. All corporations must answer number 2 by giving a short description of the character of affairs that the corporation will conduct. The corporation's character of affairs can change, but an initial description must be provided in the Articles. A.R.S. § 10-3202.

Number 3. The corporation must check one box to indicate whether or not it will have members. "Member" means any person that the articles of incorporation or bylaws give the right to vote for the election of a director or directors. See the full definition at A.R.S. § 3140(37).

Number 4. The Arizona known place of business (KPB) address must be a street address in Arizona, and it can be the same as the statutory agent's street address. See A.R.S. §§ 10-3202, 10-3501. The address will be viewable by the public on the internet. If the KPB address is the same as the statutory agent's street address, check the "yes" box and continue with number 5, and do not list any address under number 4.2. If the KPB is not the same as the statutory agent's street address, check the "no" box and provide a street address in number 4.2 by completing all address blanks that are not marked as optional. Note that the corporation is required to maintain a valid KPB in the records of the Arizona Corporation Commission at all times, and failure to do so will subject the corporation to being administratively dissolved. See A.R.S. §§ 10-3501, 10-3502, 10-11420.

Number 5. List each and every initial director of the corporation, giving the name and business address of each director. Fill in all address blanks that are not marked as optional. Note that the addresses will be viewable by the public on the internet. Do not provide social security numbers or dates of birth. If more space is needed for listing directors, check the box and complete and attach the Director Attachment form C082. If you check the box but do not attach the Attachment form, the document will be rejected.

Number 6.1. Please refer to the section on "What is a statutory agent" and "Who can be the statutory agent" under the General Information section above. List the name of the statutory agent – either an individual or entity, not both. If the statutory agent is an entity, you can put the name of a person to whom correspondence will be directed on the "Attention" line directly underneath the statutory agent name line. Provide a street address for the statutory agent directly underneath the "Attention" line, completing all blanks that are not marked optional. Note that

corporations are required to maintain a statutory agent at a valid address in the records of the Arizona Corporation Commission at all times, and failure to do so will subject the corporation to being administratively dissolved. See A.R.S. §§ 10-3501, 10-3502, 10-11420. Note that official notices from the Arizona Corporation Commission will be mailed to the statutory agent at its street address, unless a statutory agent mailing address is provided, in which case notices will be mailed to the statutory agent mailing address.

Number 6.2. The statutory agent named in number 6.1 can have a separate mailing address, which can be a P.O. Box or a personal mail box. If the statutory agent is an individual, the mailing address must be in Arizona. Complete all address blanks that are not optional. Note that official notices from the Arizona Corporation Commission will be mailed to the statutory agent at its street address, unless a statutory agent mailing address is provided, in which case notices will be mailed to the statutory agent mailing address.

Number 6.3. The individual or entity named as statutory agent must accept the appointment as statutory agent by signing a statement of acceptance. The statutory agent can independently complete and submit form M002, the Statutory Agent Acceptance form, available on our website at this link: <http://www.azcc.gov/divisions/corporations/forms/formsindex.asp>, however, it is recommended that the acceptance form be delivered simultaneously with the Articles. If no statutory agent acceptance is in the Arizona Corporation Commission system at the time the Articles are examined, the Articles will be rejected.

Number 7. You must complete and submit along with the Articles a Certificate of Disclosure. You must use the A.C.C. form for the Certificate of Disclosure. Forms are available on our website at: www.azcc.gov/Divisions/Corporations

Number 8. Please refer to "Who can form a corporation" under the General Information section above. List the name and address of each and every incorporator. Complete all address blanks that are not marked optional. Each incorporator must sign under penalty of perjury. See the Signature

and Verification section below. If more space is needed for listing incorporators, check the box and complete and attach the Incorporator Attachment form C084. If you check the box but do not attach the Attachment form, the document will be rejected.

Signature and Verification

Each and every incorporator must sign the Articles of Incorporation.

The document is submitted under penalty of perjury, and the "I accept" box must be checked.

Sign on the line underneath the "I accept" box. Print the name of the individual signing underneath the signature line. If completing the form online, type in the name in both fields. Fill in the date. If the incorporator is an entity, check the appropriate box underneath the printed name line to indicate whether the incorporator is a corporation or a limited liability company, and then give the name of the corporation or LLC, as applicable.

Submit the document

Cover Sheet. All documents must be submitted with a Cover Sheet. Forms are available on our website at this link: <http://www.azcc.gov/divisions/corporations/forms/formsindex.asp>.

What to submit:

1. Cover Sheet
2. Articles of Incorporation
3. Director Attachment, if applicable
4. Incorporator Attachment, if applicable
5. Certificate of Disclosure with any attachments
6. Payment.

By Mail. Mail the completed paper document, cover sheet, and payment (see below for payment information) to:

Arizona Corporation Commission
Corporations Division
1300 W. Washington St.
Phoenix, Arizona 85007

In Person. Deliver the completed document, cover sheet, and payment (see below for payment information) to:

Arizona Corporation Commission
Corporations Division
1300 W. Washington St.
Phoenix, Arizona 85007

Payment Methods

Credit card. If submitting the document in person, payment by credit card is acceptable. Credit cards cannot be used if submitting by mail. The Arizona Corporation Commission accepts only Visa, MasterCard, or American Express.

Check. If submitting the document by mail or in person, payment by check is acceptable. Checks must have an imprinted name of the account holder and/or the account holder's imprinted address – checks without imprinted name or address information will not be accepted. A handwritten or stamped name or address will not be accepted. If paying by check, make the check payable to Arizona Corporation Commission, and do not abbreviate.

Money order. If submitting the document by mail or in person, payment by money order is acceptable.

Cash. If submitting the document in person, cash payments are acceptable. Do not mail cash.

Questions

For questions, contact our Customer Service Call Center at 602-542-3026, or, within Arizona only, 800-345-5819.