

	Phone: 865-692-0716 Fax: 865-692-0718	Web: www.scoreknox.org Email: counseling@scoreknox.org	Greater Knoxville SCORE Suite 450 412 N. Cedar Bluff Road Knoxville TN 37923
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## State of Tennessee Charter Application

The State of Tennessee Department of State has a one page form (SS-4418) used to obtain a charter for a nonprofit corporation. This form may be used if your nonprofit corporation does NOT want 501 (c) (3) status from the IRS. However, if you want to obtain IRS approval for a 501 (c) (3) non-profit organization, we recommend using the following format All of the information in italics has been provided to assist with preparation of the charter application and should be removed before submitting to the State of Tennessee, Secretary of State, Division of Business Services, 312 Eighth Avenue North, 6<sup>th</sup> Floor, William R. Snodgrass Tower, Nashville, TN 37243

It usually takes 2-3 weeks for the state to accept the filing of your charter and return you a date stamped copy. The date your charter is accepted for filing is your official date of incorporation. You have to submit a \$100 filing fee with your application, same as you would with the one page format.

After you receive approval from the State of Tennessee for your charter, you must file the charter with your County Register of Deeds.

The Charter is sometimes called Articles of Incorporation.

Suggested format:

### CHARTER OF

\_\_\_\_\_ *(Name of organization)*

1. The name of the corporation is
- 2.a. This corporation is a public benefit corporation.

*(This is required by the Tennessee Nonprofit Corporation Act. Corporations can be private or public benefit. Private benefit corporations will not usually qualify as exempt under Section 501 (c) (3).)*

- b. This corporation is (or is not) a religious corporation.

*(This is also required by the Tennessee Nonprofit Corporation Act. Per the IRS an organizations meets the religious purposes test if the religious beliefs of the organization are truly and sincerely held and the practices and rituals associated with the religious belief or creed are not illegal. A religious corporation can be a church, synagogue, association or convention of churches, religious order or religious organization that is an integral part of a church and is engaged in carrying out the function of a church.)*

3. The corporation's registered agent and registered office shall be:

*(Identify a stable person at a good address. It can not be a P. O. Box. It can be changed, but it is good to start with someone or some place that can be relied upon to forward official mail. This address can be the principal office, or it can be a board member or it can be you. If possible this should be an address that will remain the same for many, many years. One possibility is to use the name of an individual from the nonprofit organization but use the business address of a CPA or Lawyer.)*

4. The incorporator shall be:

*(This can be one person or any number. Consider who needs or is entitled to recognition. Incorporators have no formal authority beyond having an organizational meeting to appoint the formal board. The incorporator can be counsel, but it is sometimes useful to use this as an opportunity to recognize someone, or to hold up a name that people who might see the charter will recognize.)*

5. The street address of the principal office shall be:

*(This must be a street address. It can not be a P.O. Box)*

6. The corporation shall not be for profit.

7. The corporation will not have members.

*(It is better for most corporations not to have members or be a membership corporation. Here, members means a group of people who have the authority to elect the board and without whose approval the charter and bylaws may not be amended and the corporation may not be dissolved. Having a membership can impose cumbersome decision making procedures on a board. A corporation can have a membership, who pays dues and has some designated authority, without being a membership corporation in the eyes of the statute. This is a complicated concept for many new groups, because you can have members without having Amembers. @ Corporations made up of organizations, coalitions, >as well as individuals, may want to be a formal membership corporation.)*

8. The corporation is organized exclusively for charitable, religious, educational and scientific purposes, including for such purposes, the making of distributions to *organizations* that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding sections of any future federal tax code.

*(Your non-profit can have any or all of these purposes. charitable, religious, educational or scientific.)*

9. Notwithstanding any other provision of these articles, this corporation shall not carry on any other activities not permitted to be carried on by: (a) a corporation exempt from federal income tax under Section 501 (c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States Internal Revenue law or (b) a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 or corresponding sections of any future Internal Revenue law.

10. In the event of dissolution, the residual assets of the organization shall be turned over to one or more organizations which themselves are recognized as exempt under Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1954 or corresponding sections of any prior or future Internal Revenue Code, or to the federal, state or local government for exclusive public purpose.

*(The IRS requires paragraphs 9 and 10 as a condition for recognition of tax exempt status)*

11. The primary purpose of the corporation is

*(This statement is not required but is strongly recommended. Some grantors and prospective participants like to see what your initial purpose is. Make it informative but not detailed. It is not a plan for action, and not quite a mission statement, but something between the two.)*

12. The corporation shall, in addition, be empowered to carry out any activities authorized by the Tennessee Nonprofit Corporation Act and that may be carried out by organizations that are exempt under Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code.

*(Note that the Tennessee Nonprofit Corporation Act includes a general provision giving all authority to all nonprofit corporations, such as owning property, issuing bonds, etc. There is no need to recite the authority you want in the charter.)*

13. The corporation shall make or pay no compensation, loan or other payment to any officer, board member, creator or organizer of the corporation, or substantial contributor to it, except as reasonable compensation for goods or services rendered or as reasonable reimbursement for authorized expenditures incurred on behalf of the corporation. No part of the corporation's assets or net earnings, current or accumulated, shall ever be distributed to or divided among such persons or private individuals, pursuant to the provisions of Section 501(c)(3).

14. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation. The corporation shall not participate in, or intervene in any way (including the publishing or distribution of statements) in any political campaign or on behalf of or in opposition to any candidate for public office.

*(Paragraphs 13 and 14 are not required, but are an important reminder to board members and a comfort to some funders, especially public agencies.)*

15. Under the authority of Section 48-52-102(b)(3) of the Tennessee Nonprofit Corporation Act, a director shall not be personally liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director, except that this provision shall not eliminate or limit the liability of a director for:

- a. Any breach of the director's duty of loyalty to the corporation or its members; or
- b. Any acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or
- c. Any unlawful distribution of assets in violation of Section 48-58-304 of the Tennessee Nonprofit Corporation Act.

*(This provision gives board members the maximum protection offered by law.)*

16. The corporation shall not discriminate against any person on the basis of race, color, sex, national origin, religion, handicapping condition, age and any other basis prohibited by law. This policy of nondiscrimination applies to the hiring of personnel, election of board members, provision of services to the public, contracting for and purchasing of services and all other activities of the corporation. This policy of nondiscrimination includes, but is not limited to, a commitment to full compliance with Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and any subsequent amendments to these statutes.

*(This provision is not required by law. Some grantors require this or a similar statement to be in the charter, bylaws or some formal board policy statement)*

Dated this            day of    , 20\_\_\_\_

\_\_\_\_\_ (Signature)  
Incorporator

\_\_\_\_\_ (Typed or printed)  
Incorporator

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George Hannye