

## State of Texas Certificate of Formation of a Nonprofit Corporation

Incorporation of your PTO is **not required**, but it is highly recommended for the following reasons:

- Incorporation protects your officers and members from being held personally responsible in a lawsuit against the PTO.
- As a distinct legal entity, incorporating increases the PTO's control over its activities.
- Incorporating gives the group more credibility (when soliciting donations from local businesses, for example).

However, if you do incorporate, you will be required to file a report to the state of Texas every four years at a minimum and pay a \$25 filing fee.

Please complete Form 202 below to incorporate your PTO in the State of Texas.

NOTE: If you decide to incorporate your nonprofit, be sure to complete this step before applying for an Employee Identification Number (EIN). If your PTO already has an EIN, you will have to reapply for a new EIN after incorporation.

### Important Notes:

**Payment and Delivery Instructions:** The filing fee for a certificate of formation for a nonprofit corporation is **\$25**. Fees may be paid by personal checks, LegalEase debit cards, or American Express, Discover, MasterCard, and Visa credit cards. Checks or money orders must be payable through a U.S. bank or financial institution and made payable to the secretary of state. Fees paid by credit card are subject to a statutorily authorized convenience fee of 2.7 percent of the total fees. Submit the completed form in duplicate along with the filing fee. The form may be mailed to P.O. Box 13697, Austin, Texas, 78711-3697; faxed to (512) 463-5709; or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. If a document is transmitted by fax, credit card information must accompany the transmission (Form 807). On filing the document, the secretary of state will return the appropriate evidence of filing to the submitter together with a file- stamped copy of the document, if a duplicate copy was provided as instructed.

**Registered Agent/Office:** A corporation is required to maintain a registered agent and a registered office address in Texas. If the registered agent or registered office address changes, it is important to file a statement with the secretary of state to effect a change to the certificate of formation. Failure to

maintain a registered agent and registered office may result in the involuntary termination of the corporation.

**Periodic Reports:** Under section 22.357 of the BOC, the secretary of state may require a nonprofit corporation to file a report not more often than once every four years. The secretary of state will send notice to the corporation at its registered office as to the time the report is due. Failure to file the report when requested to do so by the secretary will result in the involuntary termination of the corporation.

**Information for Public Inspection:** Records, books and annual reports of the corporation's financial activity are required to be maintained at the registered office or principal office for three years after the close of a fiscal year. The corporation shall make those documents available to the public for inspection and copying during regular business hours and may charge a reasonable fee for preparing a copy of those records. Failure to maintain those records, prepare an annual report or make the record or report available to the public is a Class B misdemeanor. These provisions do not apply to those corporations exempted under section 22.355 of the BOC. Also note that a nonprofit corporation supported in whole or in part by public funds or that spends public funds is considered a governmental body under chapter 552 of the Government Code (Public Information Act) and thus subject to the provisions of that Act regarding access to public information. In addition, a property owner's association may also be subject to the Public Information Act pursuant to section 552.0035 of the Government Code.

**Form 202**