



## **Friends of the Market Toolkit: Forming a Non Profit Organization**

To qualify for 501(c)(3), charitable, nonprofit status under IRS regulations, an organization's primary purpose must be charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. Using the education purpose, Friends of the Market organizations are typically able to qualify for 501(C)(3). This makes the Friends organization a valuable partner to a farmers market, as most farmers markets are ineligible for charitable, nonprofit status on their own.

Before receiving their nonprofit status from the Internal Revenue Service, the Friends of the Market organization must become a legal entity. The steps for accomplishing this are as follows:

### **1. Determine the need.**

Using a steering committee, investigate the need for a Friends of the Market organization. What are the needs that can be satisfied with a Friends organization? Who are the target members? The target beneficiaries? Is there another organization in existence that already performs a similar service or is in a position to offer this service? If it is determined that there is sufficient need to warrant the development of a new organization, then the steering committee should seek additional members, with a broad diversity of interests and talent, to take on the significant work that lies ahead.

### **2. Mission and Vision**

Together, the group needs to determine the vision and mission for the organization. What is its purpose and what does it hope to accomplish? The committee should have a clearly defined mission statement that identifies its purpose. Following the mission and vision, the committee will establish and prioritize the key goals for the organization.

### **3. Documentation**

Two key documents must be developed at this stage. The Articles of Incorporation and the Bylaws for the organization will spell out how the organization will operate and be governed.

The Articles of Incorporation give the organization its authority to operate and must be filed with the Department of State. The Articles of Incorporation can be developed using a template, as in those found at the Free Management Library's Toolkit for Boards of Directors:

<http://www.managementhelp.org/legal/articles.htm>. Or you can use a fillable certificate that may be available with your state's Department of State, as is provided by New York at <http://www.dos.state.ny.us/corp/pdfs/dos1511.pdf>. Be sure that the Articles clearly define the organization as a charitable nonprofit, seeking 501(c)(3) status. Although not required, it is recommended that a lawyer review the document prior to filing. Once the Articles have been filed and accepted by the Secretary of State, you will receive a certified copy of the Articles.

The bylaws give structure to the organization, defining how it will operate. To understand the components of the bylaws, a detailed template is included in the appendix.

#### **4. File for tax exempt status with the IRS.**

The Internal Revenue Service makes the decision on tax exempt status. This involves a lengthy application process that is best left to professionals. Contract with a CPA or a lawyer who specializes in this type of application before attempting to make this application, as it is time consuming and expensive. The application, IRS Form 1023, <http://www.irs.gov/pub/irs-pdf/f1023.pdf>, must be complete, and mailed with a fee to cover the processing of the application. Typically the process can take anywhere from 6 to 18 months to complete. As an IRS reviewer processes the application, they may contact the organization with questions regarding the application. They usually provide a deadline for responses. Failure to respond within the deadline may result in the application being denied and the process, and application fees, will have to begin anew.

#### **5. File for tax exempt status with the state tax department.**

Charitable nonprofit organizations in New York State must file with the NYS Charities Bureau before they can begin to accept donations. Many funders will also require that an organization be registered before they will consider the organization for any grant funding.

To file you must complete NYS Form CHAR 410, <http://www.oag.state.ny.us/bureaus/charities/pdfs/char410.pdf>. This application must be accompanied by a copy of the organization's Certificate of Incorporation, Bylaws, IRS application form 1023, and the IRS Determination letter granting nonprofit status.

#### **6. Begin organizational operation**

Some organizations will wait until their 501(C)(3) application is approved before they formally begin operating. Others will begin as soon as they have incorporated and have a ratified set of bylaws. But the first step would be to hold an organizational meeting and elect a board of directors to govern the organization. From here the Board of Directors will establish the procedures and policies of the organization and may choose to hire staff to conduct the work of the Friends of the Market organization.

#### References:

Judith Barry and Brian Henahan. "Considerations in forming a non-profit organization in New York State:," New York Agricultural Innovation Center, April 2006.