

**FORMING AND MANAGING A PUBLIC BENEFIT NON PROFIT
CORPORATION
FOR VOLUNTEER FIRE AND EMS PERSONNEL**

The Why and How

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**Reasons for volunteer fire fighters and EMS personnel to form a public benefit
nonprofit corporation**

In addition to being a legally constituted department of a city or township, fire, EMS and emergency service departments also serve important civic and social roles. More specifically, the volunteers who serve the departments function as leaders and focal points for many community civic, social and fraternal activities. In recognizing this aspect of emergency service volunteers, it is critical to separate the fire and emergency services department from the civic, social and fraternal activities of the volunteers. This separation should include legal, functional and financial separation from both the department and the governing body of the fire department.

Other reasons for volunteers to form nonprofit corporations include:

1. Ability to receive grants not available to government entities
2. A legal method for volunteers to fund raise and control "their" money
3. A way to gain public support and recognition for the department

Further, most auditors monitoring city finances and, most importantly, the Iowa State Auditor's office recommends a separate, properly established and managed nonprofit corporation for volunteer fire and EMS departments.

To this end, an emergency service responders' foundation or association can be developed as a separate, legally incorporated organization.

To be a legally incorporated under Section 504 of Iowa Code as a public benefit nonprofit organization, Articles of Incorporation and Bylaws for an association must be filed with the Secretary of State. Articles of incorporation establish the corporation while bylaws describe its operation. The type of non profit formed by fire and EMS personnel

is called a “public benefit” non profit corporation. The term “public benefit” is applied to the corporation because it does not serve its membership but rather the public as a whole. This status implies certain responsibilities at the same time it provides authority to perform certain activities. The primary responsibility of a public benefit nonprofit corporation is to serve the public. Also important to note is the requirement that the corporation report its activities and financing to the public. For volunteer fire and EMS personnel, this is easiest done through the city council and township trustees.

Further, it is recommended that the non-profit corporation file for tax-exempt status from the United States Internal Revenue Service under Section 501 (c) (3). This generally requires a CPA or attorney. The IRS charges a fee based on expected corporate revenues to corporations seeking tax exempt status

Before considering a nonprofit corporation for a group of fire and EMS volunteers, a critical distinction and separation of authority must be understood. This document describes a corporation formed for the purposes of conducting civic, social and fund raising activities. The corporation, while a partner with the city, its fire department and the townships in the area, does not have authority to operate the fire and EMS department. The activities and funding of the nonprofit corporation is completely separate from the city and fire/EMS department. The corporation members and the city must clearly understand this separation of authority and responsibility. Separation of activities and money must be carefully maintained.

For assistance in developing your non profit corporation, contact us at:

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Considerations when forming a fire fighters and EMS nonprofit corporation

There are a number of important considerations when fire and EMS providers conduct fund raising and civic and social activities through a non profit corporation.

1. The city and township officials, all citizens of the community and the fire/EMS providers form a partnership working together to benefit the community.
2. Money raised in any manner in the name of the fire/EMS department, belongs to the governing body (city or township) and must be deposited in the general fund and managed by the city or township. See Section 384.3 of Iowa Code.
3. It is best to accomplish fund raising and civic and social activities (such as dances, pancake feeds, raffles etc) by a non profit (Iowa Code 504) corporation.
4. The corporation may also secure and manage grants. However, sometimes the city must secure and manage the grant. This is dependent on the granting agency.

5. The business of the corporation will be conducted in the chosen name of the corporation.
6. The corporation should secure U. S. IRS tax exemption (but this is not required to be a nonprofit corporation). Section (501(c) (3) of the U. S. tax code is the most common form of tax exemption for fire/EMS associations. A CPA or attorney can help you do this but an Iowa nonprofit corporation must first be formed. To be “tax exempt” means that individuals, corporations and foundations who donate money to the corporation may deduct the donation from their tax liability. This may be a major benefit for those donating money.
7. The city and townships should recognize the non profit corporation as the civic, social and fund raising corporation in their code establishing the fire/EMS department. The city and the corporation should be viewed as partners in improving fire, EMS and emergency services in the community. The city may recognize this partnership in the ordinance which establishes the fire/EMS department.
8. It is most important to remember the fire fighters and EMS personnel are forming a completely separate organization from the city or township that formed the fire/EMS department. As the corporation is formed, its duties should be listed and differentiated from those duties of the city and township.
9. The corporation which is formed is a “public benefit nonprofit corporation” and must view itself as a corporation formed for the public good and a partner with the fire/EMS department. It will conduct its business in complete openness, publicize its fund raising success (which translates into better fire and EMS services), share its records with the city, townships and auditors and encourage the public to participate in its activities.

Forming a non profit corporation

Fire fighters, EMS personnel and other emergency responders can form a non profit corporation in Iowa to receive donations, obtain grants and conduct civic and social activities. These are activities the cities and townships which form fire and EMS departments usually do not perform. These non profit corporations are generally called “fire fighter associations” “EMS Foundations”, “emergency responder associations”, “fire fighter foundations” and the like.

A non profit corporation is used to separate the “official” duties of cities and townships (providing fire and EMS) from the “social, fraternal, civic and fund raising” functions performed by the fire/EMS volunteers. Such activities include fund raising, dances, pancake breakfasts, fish fry dinners, tractor pulls and the like.

Some granting agencies and foundations provide grants only to non profit corporations and not to government entities. In this case, the advantage to the foundation is significant because it means the citizens of the city and townships can benefit from additional resources not available to their governments.

This separation of function is important to all involved: the cities and townships and to the fire fighters and EMS personnel. The social, fraternal and civic functions of emergency responders are vital to the communities of Iowa. They should, however, be performed by a non profit corporation and separated from the city and township government. To aid in differentiating the city/township department from the association (especially for fund raising, grants and other financial matters) the name of the association must be different from the name of the fire / EMS department.

Recommended steps in forming a non profit corporation

1. decide your goals and plan your strategy
2. keep the city council, township trustees and policy makers informed
 - a. meet with them, explain your goals
 - b. modify the city ordinance establishing the department to recognize the association
 - c. it is not recommended to use the city or county attorney to assist in forming the association (this may represent a potential conflict of interest)
3. obtain a mailing address different from the fire / EMS department's address (a box number will be OK but you will also need a physical address for the corporation)
4. write articles of incorporation
 - a. choose a name utilizing the term "Incorporated" (not "XYZ Fire Department") Example: "The Osterville Volunteer Fire Fighters Foundation, Incorporated" or "The Osterville Fire and EMS Association, Incorporated"
 - b. select a "registered agent" (this will be the person who receives the mail for the corporation)
 - c. select initial board of directors (5 is recommended)
 - d. determine other details as needed
5. write by-laws
 - a. determine association officers
 - b. define membership
 - c. determine other operational details as needed
7. file the articles and by-laws with Secretary of State

- a. filing fee: \$20.00
 - b. contact information for the Iowa Secretary of State is:
 Secretary of State
 Business Services
 First Floor, Lucas Building
 321 E. 12th St.
 Des Moines, IA 50319
 515-281-5204
 515-242-5953 (Fax)
sos@sos.state.ia.us
8. obtain tax exempt status from U. S. IRS
 - a. review and determine if 501(c) (3) status suites your circumstances
 - b. file for tax exempt status
 - c. usually a CPA or attorney can expedite this process
 9. obtain “Employer Identification Number” (EIN)
 - a. this is commonly referred to as your “tax ID number”
 - b. the corporation obtains the number by phone from the U.S. Internal Revenue Service at 800-820-1040
 - c. OR go to the IRS website to obtain an EIN
 - d. The EIN is similar to a social security number in that it is used for identification, however, it is for a corporation

**Recommended steps in operating a
nonprofit corporation**

1. meet with city and township officials to discuss roles of the department and the corporation
2. move current assets into accounts and other financial instruments in the name of the corporation
3. if the corporation owns property (vehicles, buildings, equipment) put the title/deed into the name of the association and provide insurance as needed or transfer ownership to the city
4. purchase liability and other insurance as needed for the activities or property of the corporation
5. conduct all future social and civic activities, grant applications and fund raising (i.e. all those things that are not official duties of the fire department or EMS department) in the name of the corporation – it is helpful to meet with the

governing body of the fire department (generally the city council) to discuss which body (government or corporation) is in charge of each activity

6. work with the public to inform and teach them to select the appropriate recipient of donations (corporation or fire/EMS department)
7. Conduct monthly or bimonthly meetings (separate from the fire department/EMS meetings and training). Monthly meetings should include as a minimum
 - a. minutes of the last meeting
 - b. new business
 - c. old business
 - d. treasure's report
 - e. committee reports
8. The financial accounts of the corporation should be audited by the Board of Directors and submitted to an outside auditor yearly
9. Keep the public and the elected officials (city council, trustees etc) informed of activities and success

For more information and assistance in forming and operation a corporation and in conduction public relations campaigns by corporations, contact:

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