

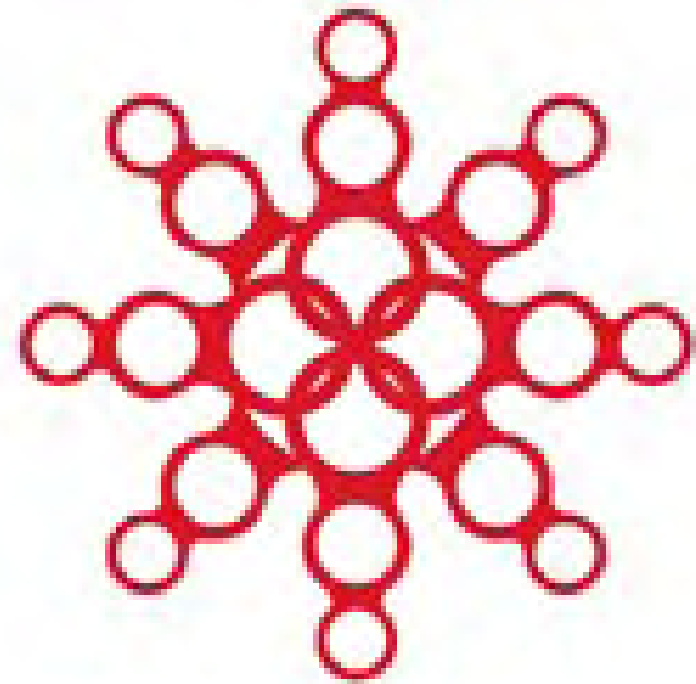
Hackerspaces: The Legal Bases

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a little about me

- attorney in Illinois
- founding member of Pumping Station: One in Chicago
- attorney for Pumping Station: One



**PUMPING
STATION: ONE**

topics for this talk

- making your hackerspace a real legal entity
- special considerations for nonprofit hackerspaces
- looking for a physical space
- liability concerns for when you're up and hacking

disclaimer...or, what this talk isn't

- This talk is for informational purposes, and is not personal legal advice. It does not create an attorney-client relationship between me and any of you who are listening to it.
- Even though I have made every effort to make the content as accurate as possible, there is no way I can address all the legal issues that may ever come up.
- Also, the way to best address each issue often varies by state or jurisdiction. I am only licensed in Illinois.

what this talk is



- introduce you to the most common issues that arise when starting hackerspaces
- introduce you to common ways states treat them
- equip you to ask the right questions as you start and plan your hackerspace.

corporate formation

making your hackerspace
a real, live legal entity

why incorporate?

- not incorporating may be tempting
 - paperwork
 - giving in to “the man”
- however,
incorporating protects you!
 - personal vs. organizational liability



corporate and corporate-like forms

- nonprofit corporation
 - not for profit
 - does not issue stock, and cannot pay dividends
 - all money must be reinvested into nonprofit purpose
 - subject to state laws governing director, officer, and member meetings
 - donations may be eligible for tax deductions

corporate and corporate-like forms

- traditional corporation
 - for-profit entity
 - issues shares of stock, and may pay dividends on those shares
 - subject to state laws governing director, officer, and shareholder meetings
 - entity is taxed, as well as shareholders' profits

corporate and corporate-like forms

- limited liability company
 - for-profit entity
 - hybrid between corporation and partnership
 - limits the personal liability of partners
 - entity itself is not taxed, but partners' shares of the company's assets are taxed
 - gets complicated with more than a few investors
 - can't issue stock certificates as evidence of owners
- consult a local tax lawyer if you decide to go for-profit and need to decide between a corporation and an LLC.

making your hackerspace a legal entity

- articles of incorporation
 - each state has its own form, which is normally on the Secretary of State's website
 - addendum from IRS Publication 557, for nonprofits
- IRS Employee ID Number
 - <http://www.irs.gov/businesses/small/article/0,,id=102767,00.html>
- bylaws
 - generally not filed with the state, but necessary to operate

officers and directors

- corporations, both nonprofit and for-profit, must have officers and directors
 - state corporations codes prescribe how many are necessary, and minimum qualifications
- who should your officers and directors be?
 - officers really need to be involved day-to-day
 - at least some directors should be involved day-to-day
- how much authority should directors have?
 - decide this early, and put it in your bylaws!

nonprofit issues

getting the most out of your
nonprofit hackerspace

reinvestment: the core of a nonprofit



- nonprofit organization must put the money it receives back into the organization to advance its purpose
- can collect membership fees and donations; cannot distribute them to investors as profit.

nonprofit purposes

- both state and federal governments require a nonprofit purpose in order to get the legal advantages of a nonprofit

tax-exempt status under §501(c)(3)

- §501(c)(3) is the section of the tax code that defines the requirements for organizations to which donations are federally tax-deductible
- must be organized for a recognized nonprofit purpose, and not engage in political campaign activity
- expensive (\$750), but beneficial to file within 15 months of incorporating
- dues are not deductible; donations are

state-law considerations

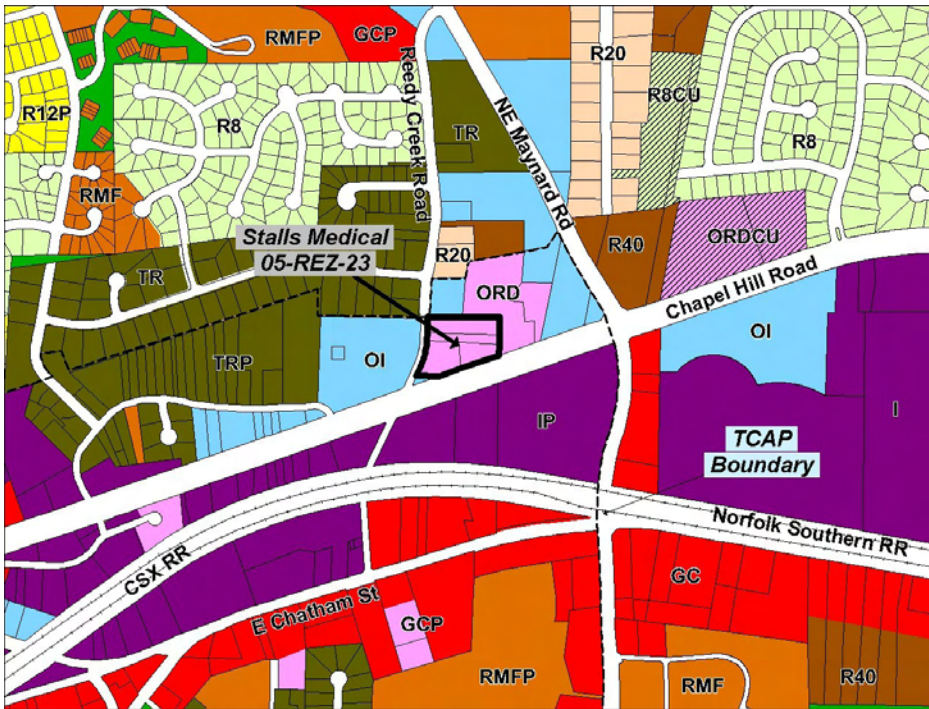
- charitable registrations
- sales tax exemptions
- charitable immunity
- liability shield provisions: to pay the directors, or not to pay the directors?



getting a physical space

finding a nice space is exciting,
but take time to protect yourself.

zoning



- city ordinance governing how each parcel of land may be used
- know what activities your hackerspace is planning to do
- nonconforming use fines

leasing



- be up-front with the landlord
- read the lease, and get a lawyer to read it as well
- negotiate lease terms to protect your hackerspace
- get the lease in your hackerspace's name

liability

hackerspaces are dangerous.
plan for the worst.

insurance

- insure against
 - personal injury
 - property damage
- often a requirement of a lease contract—and necessary even if it is not a term of the lease
- be candid with the insurer



waivers

- members and non-members
- make sure the waiver covers:
 - acknowledging that the space is dangerous
 - personal responsibility for safety
 - holding the hackerspace harmless if anything happens
 - competence to sign the waiver
- use plain English
- not a replacement for a culture of safety

in conclusion...

- despite the fact that i am a professional killjoy, i know as well as you do that hackerspaces are a lot of fun!
- as a leader of the space, it'll be a lot easier for you to set aside your stress and have fun building things if you make sure to cover the legal bases as you go through the process of starting your space.

in the words of my Constitutional
Law professor...

questions?

comments?

grievances?

catcalls?