



FARM COMMONS

 @FARMCOMMONS

 @FARMCOMMONS

 FARMCOMMONS.ORG



FARM COMMONS

5 STEPS TO PROTECT YOUR FARM, LEGALLY SPEAKING

FEB. 28, 2023

Let's Hear From You All

Have you worked with an attorney on matters involving your farm business?



About Farm Commons

- **We empower agricultural communities to address their own legal vulnerabilities, within an ecosystem of support**
 - Educational resources: guides, workshops, webinars, podcasts, Q&A platform
 - Leadership development: solutions by and for farmers

Membership makes it possible! See if membership meets your needs for developing legal resilience in your community.

I'm Chloe

- Staff Attorney
- Live in Hillsborough, North Carolina
- I've worked on diversified vegetable farms, in private practice, and for other ag non-profits.



Let's Hear From You All

Have you worked with an attorney for your farm business?



Farm law education can reduce risk,
build stronger communities, and create
joy. Yes, joy.

PROBLEM #1

SOMEONE IS INJURED ON YOUR FARM PROPERTY

- Recreational activities (e.g., birding, hunting)
- Picking up product
- Delivering supplies
- Attending an event

Get Liability Insurance

Insurance is the single best risk management strategy for injury liability and is necessary for even the safest of farms.

Why get liability insurance?

- If someone gets hurt, everyone gets sued.
- You need someone to defend you and explain why it wasn't your fault.

What are the alternatives to insurance?

- “My state has a farm liability protection statute.”
- “I use a waiver.”
- “I posted a sign.”

You still need insurance!

Action Step #1: Call your insurance agent

- Explain exactly what you do:
 - Events?
 - Product sales?
 - Deliveries?
 - Recreational opportunities?



PROBLEM #2

SOMEONE GETS SICK/INJURED FROM YOUR PRODUCT:

- Salmonella, e. coli, or other pathogens
- Foreign object

Get Liability Insurance

Insurance is the single best risk management strategy for food safety liability and is necessary for even the safest of farms.

Action Step #2: Call your insurance agent

Ask for details on:

- Foreign object contamination
- Disease transmission
- Pathogens



Recommended Resources

- Managing Farm Risks with Insurance
- Farmers' Guide to Food Safety Liability
- Discovering Resilience Workshop

PROBLEM #3

**DEATH, DISAGREEMENT, OR DIVORCE DISRUPTS
OPERATIONS**

Talk about these questions

- What does each partner need to contribute to the business (money or labor), and when?
- How and when are we compensated for our involvement?
- Who decides big issues like buying property or going into debt?
- What happens when someone wants to leave the business?
- How do we handle disputes?
- How are we handling routine formalities, such as annual budgeting, financial procedures, and governmental obligations?

Resiliency is in relationships

- Agree on a plan for resolving these questions that works for YOU and your PARTNERS.
- If you don't have a plan, the state has one for you...
 - But you may not like it!

Write a Governance Document

TYPE OF BUSINESS STRUCTURE	GOVERNANCE DOCUMENT NAME
Limited Liability Company (LLC)	Operating Agreement
Corporation	Bylaws, Shareholder Agreement
Partnership	Partnership Agreement

Recommended Resources

- Farmers' Guide to Business Structures
 - Sample operating agreements, bylaws, business entity formation checklists, etc.

PROBLEM #4

THE LANDLORD/TENANT DISRUPTS YOUR FARM OPERATIONS

Write down a thorough lease agreement

- Talk about your ideal relationship
- Agree on how you want to work together
- Write it down!

(That's the lease.)

What to talk about?

- ✓ The Parties
- ✓ Permitted and Prohibited Uses
- ✓ Infrastructure
- ✓ Maintenance of Shared Infrastructure
- ✓ Improvements
- ✓ Length of the Lease, Renewal
- ✓ Termination
- ✓ Conflict Resolution
- ✓ Payment Terms

Action Step # 4: Start the conversation

- Work through the questions between tenant and landowner.
- Begin working towards your own written lease agreement.



Recommended Resources

- List of Questions to Ask When Writing a Lease
- Long-Term Leasing Workbook
- Other templates and models online

PROBLEM #5

**A STATE OR LOCAL GOVERNMENTAL UNIT
NOTIFIES YOU THAT YOU'RE VIOLATING A LAND-
USE REGULATION.**

Know Your Zone

- Zoning codes may prohibit diversification (or, really, anything out of the ordinary).



Know Your Zone

- What are your zoning regulations?
 - Find your farm on the zoning map.
 - What code are you in?
 - What is allowed in that code?

Action Step # 5: Research the Code

- County/Town/City land use planning/zoning office
- Website may have online files
- Public library can help



Learn More!

- Discovering Resilience:
 - Learn the 10 legal best practices of a resilient farm or ranch business
 - Create a customized action plan to develop legal resilience
 - On your own time or with a cohort of peers

Learn More!

- Access 100+ guides, models and checklists on a range of farm business law issues
- Take our advanced farm law course(s)
- Ask questions on our Q&A platform

Join us as a Producer Member

- Take 30% off the annual membership fee with FACT30.
- Expires December 15, 2023.



Questions?