



**TRELLIS**

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## **The Farmer's Off-Season Legal Punch List**

As the days grow shorter and less productive outside, the winter months are a perfect time to put the kettle on, gather around the kitchen table, ... and get your farm business in order! While winter can be a much-deserved respite, we encourage you to also work through this farmer's off-season list of things to get ready so you can have the administrative and legal stuff buttoned up before the sun comes out again.

***Remember, this outline is a general guide. Be sure to contact an attorney if you have questions or specific issues.***

### **Do you have an entity set up for your farm? Is it time to get one?**

Having an entity like an LLC, corporation, cooperative, or other structure provides legal protection for your personal assets, aka "limited liability" for your business. This means only the business assets are at risk in a lawsuit or financial claim, not your personal assets. (Check out our blogs about [entity formation](#) and [What is an LLC?](#), or the [Trellis Template Library](#)<sup>™</sup> with LLC Operating Agreements for sale once you get yours filed with the state.) It can also be a great tool for separating liability between your land and business operations to protect your land as your greatest asset.

An attorney's recommendation for how you structure your farm entity will depend on how your land ownership is structured, whether you rent, if you share spaces, or how your business is organized. We also recommend talking to an attorney to understand any other annual report or filing requirements associated with having an entity. ([Read our blog post](#) about the Corporate Transparency Act and filing requirements that go with it.)

Additionally, if you are operating a business or selling your products under a name [other than your personal name](#) you need to have an entity or a fictitious name ([also known as a "Doing Business As"/DBA](#)).

**Running the business separate from yourself.** If you have an entity already, you will want to make sure you're running the business separately from yourself, including that you have a separate business bank account you use only for the business, and that your business documents accurately reflect how you're operating and best protect you. For example, if you have more than one owner of your LLC, you want to make sure you have an operating agreement that outlines the duties and expectations of each owner (or member, as LLCs call them). You also want to make sure if you have multiple entities that you are keeping separate books and transactions so that you aren't comingling operations which can expose you to liability. Learn more about running your LLC separate from yourself (and your other businesses) [in this resource](#).

**Do you plan to change or add anything about your business in the new year?**

Maybe you're thinking about adding on-site events or offerings like u-pick or riding lessons. Maybe you want to start selling at farmers' markets or partner with other groups to expand your offerings. Whenever you change or add to your operations, it's worth talking to your attorney. There also may be additional laws or regulations you will need to follow (or that keep you from actually being able to do the new activity) and an attorney may recommend additional ways to protect yourself, such as [liability waivers](#) or contracts.

- If you want to sell at markets, download our free [beginner's guide to a farmer's market stand](#)
- Check out some blogs about [u-pick](#), [agritainment](#), and [agritourism](#)

Also, definitely talk to your insurance provider to make sure you'll be covered for the new or expanded offerings. Chances are, if you're changing or adding to what you did when you started operating, your insurance will not include coverage for the new component until you add it on (such as through a rider or umbrella policy).

**Do you have all the sales agreements and contracts you should?**

No matter how you sell your products — whether it's on-farm, direct sales, wholesale, or maybe CSA — you want to make sure you have your legal checkboxes ticked. For on-farm sales, you want to think about how you will be making those sales, what regulations and zoning applies, permitting, food safety considerations, temperature and labeling rules and insurance. For direct-to-customer or [wholesale](#) contracts you want to make sure you spell out the key components of your agreement how are orders placed and when will delivery occur? What happens if there are defects in the product? What IS a defect? Etc. And for CSAs, you want to have clear CSA policies your potential customers can understand to make sure you and them are on the same page. (Check out our [CSA template for sale in the template library](#) and learn more about [building a protected CSA in this free resource](#).)

**Does your lease include everything it should to protect your business?**

If you rent land, you should make sure you have a solid lease in place. Too many horror stories are told about farmers leasing land and being kicked off without protection. Leases for land are an excellent way for property owners and farmers alike to make use of great space. There are many considerations to include in them and how to structure a lease. Make sure you have a lease in place if you are renting and that it accounts for your situation. Also, make sure it is up to date. Our [Farmer's Guide to Leases Resource](#) is a great place to start. It's organized into Dos and Don'ts for your farm lease, so know what to look out for and you can hit the ground running. Also, read our general resource about [navigating landlord-tenant relationships](#).

**Separating land and liability through leases.** If you have your land separate from your farm business (as we mention above) make sure to properly separate the two. This can be done through a lease between you as the landowner and your farm business. The lease must be written and provide evidence of the separation, and rent cannot be so minimal it wouldn't be considered reasonable.

**Do you have an accountant and are you caught up on this year's books?**

Speaking to an accountant is important when running a business. Finding an accountant who understands the specific tax benefits, strategies, and requirements as they relate to farm businesses can help you save money and stay compliant. It's important you understand what taxes you need to be paying and any specific tax registrations you need to file for. Attorneys only advise on the legal side of

things (unless they are a tax attorney) so it is important you also understand the tax implications of your business. Accountants can also help you set up your bookkeeping practices and help you understand what is and isn't deductible as a business owner. We recommend talking to an accountant at the end of the year and getting your books in order so you aren't scrambling when taxes become due (which inevitably always falls on the best week of weather).

**What else? Talk to an attorney.**

Finally, be sure to talk to an attorney about your unique farm business. They will help you get into compliance with specific business regulations and check in on how you're operating before the new year begins. No farm is the same, and each one deserves to understand their rights and requirements as a business owner selling food and other goods to the public. (And if you don't know where to start or how to budget your legal costs, read our blog post about [practicing safe legal DIY here.](#)) Most attorneys offer free initial consultations so take advantage of that in the off-season even just to know what you need to be thinking about and to help you triage!