

Insurance Considerations

Insurance is a critical part of being in business and carries with it costs that are budgeted for and usually paid monthly, quarterly or annually at a renewal point. A sole proprietor or partnership business structure may mean the owner can become personally liable for an incident on their property, in their building, or with their product or service. Therefore, consider filing as an LLC or S-Corp and getting a separate commercial insurance policy to avoid the costs that could impact you individually. Be very honest with your agent, and find someone who knows agriculture, greenhouses and the food industry. They are specialists and they are your best advisor in getting proper coverage. As always, consult an insurance, legal, financial and tax advisor to make the best-informed decisions about your insurance coverage.

The United States Department of Agriculture – Risk Management Agency now has a listing of the state and local agencies that support and provide insurance for farming activities.

<https://www.rma.usda.gov/Information-Tools/Agent-Locator>

Determining your insurance needs:

1. Recognize Risks and Requirements for all parts of the business.
2. Have the right coverage – property, structure, equipment, additionally insured, general and product liability, umbrella, crop, workers comp, auto, life, health.
3. Be clear about your insurance needs, complete the annual audit and policy renewal to keep up to date.

Property Insurance – Agriculture or Homeowner’s Insurance

- If your home and your greenhouse or farm is on the same property it may fall under your homeowner’s insurance. If the property is zoned agriculture there may be more insurance considerations than a traditional residential homeowner policy.
- If the property is not zoned agriculture, make sure that an agriculture business is allowed on the property you have selected (this could be a zoning issue). Insurance can be challenging or prohibited if the local ordinance denies land use for a building or operating a commercial greenhouse. There are times when a greenhouse can be covered if it is only for personal use (ie growing your own vegetables).
- Make sure to review zoning, land use, building allowances, business operations, etc.
- Property insurance is for the land itself. Additional insurance levels may be necessary if the property is considered prone to flood zone, fire hazard, earthquake, high winds, tornadoes, hurricanes, hail, volcanoes, etc.
- Carefully review the policy for EXCLUSIONS such as internal flood damage, mold or bacteria, chemical use, fire, doing business or having agriculture activities on your premise. These may NOT be covered under some property or homeowner policies, and you could be in violation (and not receive payment) if you were to proceed with that line of business in that location and there was an insurable issue.

Property Insurance of Structures (also called Buildings or Dwellings)

- Usually within the property insurance are designations and related costs to structures on a property. The associated insurance costs are based on the building value, type of construction materials, year they were built, replacement costs, improvements, risk of damage, etc.
- Inform the insurance company if you make ANY changes to an existing building, such as a new way to use the building (for example a storage barn to a greenhouse growing food) or upgrades (such as heating, air handling, and solar electricity), or changing a structure from a residential function (garage) into a business function (walk in cooler and food prep area).

- Ensure that any additions or changes (especially electrical or plumbing) have been issued the proper permits, are performed by licensed contractors and have been inspected and approved. Insurance can easily deny claims for damages after improvements are made if these things are not followed.
- When building new structures, make sure that insurance policies get updated when they are completed (usually before or at the time that a Certificate of Occupancy (CO) is issued)
- An umbrella policy (over and above your homeowner's policy) may be used to cover additional insurance needs or special circumstances, but again check to see if the umbrella is just for personal coverage or allowed for business coverage.

Additional Insured Policy

- If your farm is on someone else's property (school, church, non-profit organization, farm, renting a greenhouse), you will be considered a tenant (even if the lease is "free") and should provide your own insurance with the property owner as additionally insured.
- If you commonly have people visiting the greenhouse space for workshops, tours, internships, etc it would be important to maintain proper liability insurance for those activities and may be necessary to name the entity as an additional insured.
- If you rent out your greenhouse, property or storage areas for any reason, the person renting should have you (your business) as additionally insured.
- Besides rental situations additionally insured would also be useful for farmers markets, food trucks, or other sales channels (such as a food basket or CSA shares program), any contractual arrangement with someone else who is going to hold, repackage, sell your products or services.

Commercial Liability Insurance

To sell a product or service in a form of business requires liability insurance.

- General liability – \$2 million suggested, for products and operations.
 - Large grocery chains or distributors may require a \$5 million minimum to do business with you. This would require an umbrella policy over the general liability.
 - Product coverage – food borne illness, recall. This is part of the general liability aggregate amount but must be spelled out for farm activities and food sales or they won't be covered. This can also cover your product for spoilage (cooler goes out, crop damaged by accident or fish die)
- Bodily Injury and Property Damage Liability – \$1 million suggested, this would cover someone injured on your farm, farmers market tents and umbrellas hurting people or causing damage to cars or buildings (this is not a replacement for worker's compensation insurance – see below)
- Damage to Rented Property – damage to property you lease, pesticide and herbicide application or pollution. Review carefully, this may require special insurance for floods, mold, fire, etc.
- Personal and Advertising Injury Liability – \$1 million suggested, this is related to goodwill and business presence in the industry, ability to do business, etc.
 - Use caution using words like "all natural", "pesticide free", "chemical free", "organic" (unless certified) etc. in advertising or product representation, these can be collected on if a disgruntled customer or competition sues.
- Medical payments – can be used for minor injuries or physical therapy (may supplement or supersede health insurance or workers comp insurance, but this does not replace having actual personal health insurance.
- Most business liability policies are priced related to revenue and exposure, so as revenue increases, the cost of the policy also increases. This is often based on gross revenue, not net revenue.

Worker's Compensation

- Not always required for owners or family members working in the business.

- Essential for anyone employed, apprentices or interns either part or full time even if they are not receiving payments, but some other form of compensation (Don't assume just because your employees, interns, customers, or other vendors like you they won't bring a lawsuit if something happens. It may be outside their control. For example, if someone is injured, it is their insurance company which will do everything to identify who is liable.)
- Not every state requires worker's comp, and some states specifically allow exemptions for agricultural workers.
- If worker's compensation insurance is required in your state, and you have ignored filing and paying it for employees, they can make back payment requirements, fines and penalties, so its worth figuring it out from the beginning.
- State by state worker's compensation insurance requirements resource – <https://www.thehartford.com/workers-compensation/states>

Auto Insurance

- Let your car insurance company know if you will be using your personal vehicle for business purposes or if any employees will be driving your vehicle. Not all personal auto insurance covers business functions.
- If you rent a vehicle like a van for deliveries, farmers markets, etc. ask your auto insurance if they will cover that vehicle while you are renting it. Also check with the credit card company to see what coverage they offer before taking the coverage provided by the rental company.
- If you rent a vehicle and someone else uses it and gets into an accident, insurance will not cover the other person (including a spouse or related person), unless that driver was included in the contract.
- If your farm includes other components such as trailers, tractors, forklift, or other drivable equipment, find the right insurance coverage for each with either auto or equipment insurance policy.

Equipment Insurance

- Can be used to cover other things such as the aquaponic system and components, heating, cooling and air handling (HVAC) systems, refrigerated units, greenhouse equipment, solar panels, etc. in the case of failure, outage, destruction.
- Equipment will be covered at one of three ways –
 - Actual value - what you originally paid when it went into service.
 - Depreciated value – what you paid minus depreciated over time either by accounting standard or wear and tear.
 - Replacement value – what it will cost you to get a new one at the time that it is destroyed. Usually replacement value will cost more but will also provide a lot better payout in the future.
- May allow you to be paid lost business revenue in the event of equipment failure (such as the HVAC unit not maintaining the greenhouse temperature), or a power outage killing the fish.

Crop Insurance

- Used to be difficult if not impossible to get crop insurance unless it was a very large farm with a “valuable” crop.
- Now (starting in 2023), the USDA has the Risk Management Agency which covers Innovative Producers and Urban Farms – they have plans for Micro Farms (up to \$350,000 in revenue) and Controlled Environment (for pest and disease outbreaks)
- Crop insurance is not usually possible for hemp related crops with or without THC, or any other federally regulated controlled crop(s) such as types of mushrooms.
- <https://www.rma.usda.gov/en/Topics/Crop-Insurance-for-Urban-Farmers>
- <https://www.rma.usda.gov/Fact-Sheets/National-Fact-Sheets/Micro-Farm-Program>
- <https://www.rma.usda.gov/Topics/Controlled-Environment>

Personal Health Insurance

- Individual health care plans are available through state exchanges. This can be considered a deductible expense for the owner/partners. But it doesn't not have to be listed as a business expense if that would make the business financials unfavorable.
- This type of medical insurance covers more of the routine care, emergency care, and ongoing care, than the liability policy or auto policy which have some medical included but usually only apply in the event of a job-related illness, injury or accident.
- May be provided by a spouse through their employer or the Veterans Administration.
- There can be other health insurance related tax advantage products such as a Health Saving Account (HSA) which can be set up to pay for other health related expenses such as glasses, dental work, co-payments, prescriptions, etc.
- Dental and vision insurance don't always have the best return on investment, since paying for an annual cleaning and xrays may actually be less costly than the dental premiums for insurance.
- If health insurance is necessary and paid thru the business, it would generally only apply for the owner or other workers and not for dependents. Additional premium costs would have to be paid outside of the business.

Life Insurance

- May be necessary when getting a loan or establishing credit for a business, since it would be critical for pay back purposes in the event of an owner passing away.
- May be paid through the business for the owner/owner's unless there are employees, then ask your tax advisor about the best way to pay life insurance premiums.
- Life insurance is available in various types:
 - Term – low cost for a period of 10 – 20 years, set payout, and doesn't gain any cash value.
 - Supplemental – if you need additional coverage above your existing policy to cover the payback of a loan.
 - Whole life – While much more expensive, it can also be used as a saving plan which gains value over time and can be loaned out or cashed out before the holder passes away.
- Make sure to define who the beneficiary is for the policy. If it is based on a loan requirement, the beneficiary would be the bank or lending institution before family. Therefore, it may be smart to have more than one policy type for the key owner of the business.