



Starting Your Own Small Business in Yadkin County



Yadkin County Chamber of Commerce &
Economic Development Partnership

January 2024



STARTING A BUSINESS: THE LEGALITIES

In this handout you will find information on a variety of regulatory topics for business owners to consider/ explore. Topics covered in this handout include:

| | |
|----------------------------|-----------------------|
| Zoning | Licensing |
| Choosing a legal structure | Business registration |
| Taxation | Employer requirements |
| Trademarks | Insurance |

All necessary contact numbers will be located on pages 10 & 11



ZONING

County and/ or municipal entities may impose restrictions as to the type of activities that can take place in certain areas. Contacting officials who work in local planning/ zoning offices should provide answers to questions you have about allowed land/ business uses.

★ To ask about local zoning regulations and you live in the county, call Yadkin County Planning Department. If you live within town limits, call your local Town Hall.



LICENSING

Licensing and permitting requirements may be imposed by state and local governing authorities as well as by federal authorities.

State: It bears repeating; North Carolina has no single generic license for all businesses. Some businesses may be subject to several state requirements while others may not be subject to any. For Instance, most service-only businesses are not subject to any state licensing requirements, but restaurants may have to comply with several such requirements. If you are planning to establish a business in North Carolina, you are encouraged to call and speak to a Business Link North Carolina consultant first. Speaking with a consultant is the best way to determine compliance with all state licensing and permitting requirements.

*To find out if you need a state license contact the Business Link North Carolina Office
www.blnc.gov or 1.800.228.8443*

Local: Certain Businesses need city or county licenses, or both, from the cities and/or the counties in which they are doing business. Failure to obtain proper local licenses may result in penalties to you and your business. In addition, certain types of businesses may be required to obtain special permits from local health authorities and fire or police departments.

To find out if you need a local permit contact your local Town Hall.

Food Related - Environmental Health

[NC Commerce - Business Licenses & Permits](#)

Federal: Most new businesses are unlikely to require any type of federal permit or license to operate. However, it is important and in your best interest to make absolutely certain that you comply with all applicable federal regulations before starting your business activity.

CHOOSING A BUSINESS STRUCTURE

One of the first steps in establishing a business is to determine the legal structure most appropriate for your business (how you want your business viewed in the eyes of the law). There are several different business structures from which to choose and different establishment procedures depending on your desired structure. In order to provide you with fundamental information, the basic structures or forms of organization are described below in the following paragraphs. However, the descriptions are for informational purposes only and are not intended to be, nor should you rely on them as, legal advice. Before selecting a business structure, it is advisable to consult your attorney and/ or legal accountant as each structure carries with it unique legal and tax consequences.

What legal structures are available to businesses in North Carolina?

A **sole proprietorship** is a business that is owned and operated by an individual. The owner is personally and legally responsible for his or her actions, including any actions taken on behalf of or in the name of the business. All profit or loss from a sole proprietorship belongs to the owner. This type of business organization is relatively simple to form and operate. No formal action is required by law to establish a sole proprietorship; however, proper name registration and certain permits and licenses may be required.

A **general partnership** is formed by two or more persons who agree to contribute money, labor, and/ or skill to a business and to share its profits, losses, and management. All partners typically are held legally responsible for their own actions and the actions of the other partners, including actions taken on behalf of or in the name of the partnership. Formal written documents are not required by law for most partnerships. However, business experts suggest that it is sound practice for partners in a business to have a written agreement covering their intent and expectations on basic issues, such as whether the partners will take or reinvest the profit. It is advisable to have such agreements prepared by an attorney. As with a sole proprietorship, proper name registration and certain permits and licenses may be required.

A **corporation**, though formed by individuals, is a distinct entity that has a legal status or existence separate from both the individuals who form it and its owners. Think of a corporation as an artificial entity or "person." Owners of a corporation, called shareholders, are generally protected from personal liability in that their personal property is not at risk for the liabilities of the business. Businesses incorporated and organized under North Carolina law are required to file Articles of Incorporation with the Corporations Division of the Department of the Secretary of State. It is recommended that an attorney be engaged to ensure all essential details are addressed and properly handled.

A **limited liability company**, or LLC, is an unincorporated association, legally distinct and separate from its owners. An LLC offers its owners both limited personal liability for actions of the business and special tax treatment that may prevent what has been called "double taxation" of the owners' income. The formation of an LLC is accomplished by filing Articles of Organization with the Corporations Division of the Department of the Secretary of the State.

A **limited partnership** may be formed by two or more individuals, partnerships, corporations, or other associations. Limited partnerships have both general and limited partners. A limited partner generally plays only one role in the business and that is as an investor. Accordingly, a limited partner's liability for the actions and debts of the partnership is usually limited to the extent or value of his investment. By contrast, general partners are involved in operating and managing the business and are therefore subject to unlimited liability for the acts and debts of the partnership. The formation of a limited partnership is accomplished by executing a Certificate of Limited Partnership and recording it with the Corporations Division of the Department of the Secretary of State. Proper name registration and certain permits and licenses may be required.

A **limited liability partnership**, or LLP, is a type of partnership that has only general partners, but nonetheless affords protection from personal liability to those partners who are not personally involved in or personally responsible for the acts that result in liability. Businesses providing professional services, such as law firms, are often structured as LLPs. An LLP is created by filing an application for registration with the Corporations Division of the Department of the Secretary of State.

S-corporation status is determined by the Federal Government and pertains to tax treatment. Restrictions for an S-corporation are outlined in IRS publication 334, Tax Guide for a Small Business. To request forms contact the IRS at 1-800- 829-3676 or download from www.irs.gov via the Internet.



North Carolina law requires individuals, limited and general partnerships, limited liability companies, corporations, and other persons that engage in business in this state under an **assumed name** to file a certificate with a register of deeds in a county in which the person or entity will be engaging in business.

EFFECTIVE DECEMBER 1, 2017, certificates must comply with content and execution requirements specified in the statutes for a **certificate of assumed business name**. The requirements are different than they were for a **certificate of assumed name** recorded under prior law.

Amendments to and withdrawals of certificates of assumed business names also must comply with new content and execution requirements.

Certificates of assumed business names and amendments to and withdrawals of them will be transmitted into a statewide, central database maintained by the N.C. Secretary of State, which will be available for searches by the public. A single registration can be effective for multiple counties. The Secretary will maintain a website for this purpose at www.sosnc.gov/abn/search

The Secretary will assign an identification number (SOS ID) to each assumed business name that is recorded, to which amendments and withdrawals must refer.

Compliant blank forms are available from registers of deeds upon request and may be downloaded from Business Link North Carolina at <https://edpnc.com/start-or-grow-a-business/start-a-business/business-forms/>

Certificates of assumed names filed under the prior law will EXPIRE DECEMBER 1, 2022. Someone desiring to engage in business in N.C. under the assumed name after that date must file an assumed business name certificate in the new form.

Regardless of structure type, it is not necessary for a business to file an Assumed Name Certificate in any county where no place of business is maintained and where the only business done is the sale of goods by sample, by traveling agents, or by mail.



Taxation for small businesses may be simple or complex, depending on the size and type of business structure. Some of the taxes with which a business must be concerned are briefly described below. Keep in mind that tax liability for each business will be different and that you should consult an accountant and your attorney regarding comprehensive tax planning to fit your unique business situation.

Sales and Use Tax: In addition to state, local, and/or federal license requirements, many businesses are subject to separate state sales tax regulations. Every person who is a retail or wholesale merchant in the business of selling, renting or leasing taxable tangible personal property in North Carolina is required to obtain a Merchant’s Certificate or Registration, unless specifically exempt by statute.

How Do I get a Merchant’s Certificate of Registration or a “Sales Tax ID Number”?

A Merchants Certificate of Registration can be obtained by completing form NC-BR ([NC-BR Webfill](#)) and submitting it to the NC Department of Revenue. Once registered, the business owner will receive information from the Department of Revenue on sales tax reporting and remittance requirements. For clarification of the sales and use tax law as it applies to your business or to obtain a Merchant’s Certificate of Registration contact NC Department of Revenue, Sales and Use Tax Division.

Privilege License Tax: The state privilege license tax is applicable to certain businesses or professions in North Carolina (e.g. accountant, dentist, check casher, realtor) and should be applied for before the commencement of business. Privilege licenses are issued annually and limit the person, firm or corporation named in the license to conducting the profession or business specified in the license. Obtaining a privilege license does not in and of itself authorize the practice of a profession or business. The privilege license is not a certification in any way that the holder is qualified to perform a specific business of profession. It is simply a tax for the privilege of doing business in the state. The Business License Information Office can inform you as to whether any privilege licenses apply to your business and can provide you with the proper application for the license.

Form B-202A ([Privilege License](#)) from the NC Department of Revenue is used to obtain a state privilege license; the reverse side of the form has a list of occupation requiring the license. Questions regarding privilege license taxes can be directed to the NC Department of Revenue, License and Excise Tax Division.

Franchise and Income Tax: Every corporation doing business in North Carolina and every inactive corporation chartered or domesticated here must file an annual franchise and income tax return using the name reflected by the corporate charter if incorporated in this state or using the name reflected by the certificate of authority if organized and incorporated under the laws of another state. A franchise tax is imposed on corporations for the privilege of doing business in the state. This tax is due annually as long as the corporation remains incorporated, domesticated, or continues to do business in North Carolina. Questions concerning franchise and income tax obligations should be directed to the North Carolina Department of Revenue, corporate Income and Franchise tax Division.

Ad Valorem Taxes: As a business owner, you are responsible for listing your business personal property with the county assessor's office in the county in which your business is located and you must also provide the assessor with information containing any real property improvements such as the addition of a new structure. Your failure to list the property within the time allowed by law may result in severe penalties under the provisions of Article 16, chapter 105 of the North Carolina General Statutes.



EMPLOYER REQUIREMENTS

Withholding Taxes: Certain taxes must be withheld from employee wages and remitted to the appropriate government agency. These include state and federal income taxes and FICA (Social Security). The State of North Carolina requires that every new employer complete and file with the North Carolina Department of Revenue an application for a North Carolina withholding identification number. In addition, the federal government requires that every employer who pays wages to one or more employees file an application for an employer identification number with the Internal Revenue Service. You may hear these numbers often referred to as Tax ID Number or Taxpayer ID Number.

How Do I Get an Employer ID Number?

To register with the State of North Carolina, you must complete an Application for Withholding Identification Number ([NC-BR Webfill](#)) and submit it to North Carolina Department of Revenue.

To register with the Federal Government, an application for an Employer Identification Number (or EIN), Form SS-4 ([SS-4](#)) should be completed and filed with the IRS.

✦ As a public service, the IRS will assemble and forward to you a tax information kit that fits your particular business situation. The kit includes forms and publications that apply solely to federal taxes. To obtain this information, contact the IRS and request:

1. Your Business Tax Kit (YBTK) for either a sole proprietorship, partnership, or corporation ([Publication 4591](#));
2. Tax Guide for Small Business ([Publication 334](#)); and
3. Employer's Tax Guide ([Publication 15](#)).

For more information regarding Federal Employer Identification Numbers, read Understanding Your EIN ([Publication 1635](#))

Unemployment Insurance Tax: Generally, a sole proprietorship, partnership, or corporation is required to provide unemployment insurance coverage for its employees if the business:

1. Has one or more employees for twenty or more weeks in a calendar year; or
2. Pays \$1,500 in wages during a calendar quarter.

You may also be liable for unemployment insurance tax if you acquire all or part of a business already subject to the Unemployment Insurance Act. Employer contributions to the Unemployment Insurance Fund are paid to and administered by the NC Works. To determine the extent of your obligation, contact your local NC Works Office.

Workers' Compensation: The Workers' Compensation Act requires that any employer who employs three or more employees provide workers' compensation coverage. The act provides employees with compensation for the loss of earning capacity from accidents/deaths or injuries and occupational diseases arising in the course of employment. Any sole proprietor or partner of a business whose employees are eligible for benefits may also be covered as an employee under the workers' compensation coverage of the business if the following conditions are met:

1. The proprietor or partner is actively engaged in the operation of the business; and
2. The insurer is notified that he/she had elected to be included.

For further information concerning Worker's Compensation, contact a local insurance agent or the North Carolina Industrial Commission.

Occupational Safety and Health Act of North Carolina: The North Carolina Department of Labor administers and implements the Occupational Safety and Health Act of North Carolina that applies to most private sector employment in the state. OSHA safety and health standards are enforced by the state to protect workers from unsafe and unhealthy working conditions. The Department offers free services that can help employers bring their businesses into full compliance with OSHA standards. For specific information regarding OSHA requirements, you should contact the North Carolina Department of Labor, Occupational Safety and Health Division.

Federal Occupational Safety and Health Act: The U.S. Department of Labor administers and enforces the federal OSHA rules designed to protect workers from workplace hazards and send them home whole and healthy every day. Enforcement is a high priority at the federal level and OSHA continues to track the injury and illness records of about 80,000 workplaces in high hazard industries to identify trends, pinpoint problems and target inspections. For information regarding compliance with federal standards contact the U.S. Department of Labor (Raleigh Area Office).

Employment Eligibility Verification: The Immigration Reform and Control Act of 1986 require employers to verify employment eligibility of anyone hired after November 6, 1986. In order to verify an employee's eligibility, employers and employees must complete an Employment Eligibility Form ([Form I-9](#)) and the form must be retained by the employer. The form must be presented for inspection to officers of the US Immigration and Naturalization Services or the US Department of Labor upon request.

✦ The law does not require that Form I-9 be completed for:

1. Persons hired before November 7, 1986;
2. Persons hired after November 6, 1986, who left your employment before June 1, 1987;
3. Persons you employ for domestic work in a private home on an intermittent or sporadic basis;
4. Persons who provide labor to you who are employed by a contractor providing contract services (e.g. employee leasing); or
5. Persons who are independent contractors.

Employer Information is available by telephone, letter, or over the Internet from the Immigration and Naturalization Service

Where do I find posters that employers are required to post in their businesses?

The U.S. Department of Labor provides posters required by employers on many topics (e.g. minimum wage, Family & Medical Leave, Notice to Workers with Disabilities). These posters are available **at no charge** on the Dept. of Labor's poster page.

(<https://www.labor.nc.gov/labor-law-posters>).



REGISTERING A TRADEMARK OR SERVICE MARK

State Registration: A trademark is any word, name, symbol, graphic image or combination of words and graphic images that your business has formally adopted and uses to identify its products and distinguish them from the products of its competitors. A service mark identifies your business's services and distinguishes them from the services offered by competitors. Registering a trademark of service mark serves as public notice that you are claiming ownership of the mark, and may prevent a competitor from infringing upon or using the same mark. Both trademarks and service marks must already be in use in North Carolina before they can be registered in North Carolina. Simply advertising that your business goods or services will be available in North Carolina in the future does not establish that they are currently in use in the state. While registering trademarks and service marks is voluntary, the Department of the Secretary of the State strongly recommends that you protect your marks by registering them ([Trademark Division](#)). For information on the registration process or for registration forms call the N.C. Secretary of State, Trademarks Division or visit www.sosnc.com.

Federal Registration: You can register trademarks and service marks at the federal level as well as at the state level. For information on federal trademark and service mark registration, contact The Trademark Assistance Center. Additional information and applicable forms are also available on the website for the US Patent and Trademark Office www.uspto.gov. While federal registration will protect your mark throughout the entire United States, it often involves a lengthy and time consuming process. Some businesses choose to seek state registration in order to protect their marks while federal registration is pending. State and federal mark registrations are unrelated; state and federal agencies involved do not cross-check state and federal records against each other as part of the registration process. Federally registered marks may conflict with and supersede state registered business names and product names, thus you are encouraged to check for conflicts with federal marks. Know that requirements for state and federal mark registration are not the same. Acquiring a federal mark registration does not mean that your mark will be accepted at the state level.



INSURANCE

Like home insurance, business insurance protects the contents of business against fire, theft and other losses. It is prudent for any business to purchase basic insurance relevant to the needs of the business. Some types of coverage are required by law; others simply make good business sense. Property general liability and product liability insurance are among the most commonly used and are merely a starting point for evaluating the needs of your own business. Some types of insurance for consideration could include:

Liability: Businesses may incur various forms of liability in conducting their normal activities. One of the most common types of liability is product liability, which may be incurred when a customer suffers harm while using the business' product. There are many other types of liability, which are frequently related to specific industries. Liability law is constantly changing; an analysis of your liability insurance needs is necessary in determining an adequate and appropriate level of protection for your business.

Property: There are many different types of property insurance and levels of coverage available. It is wise to determine the property important enough to insure for the continuation of your business and the level of insurance needed to replace/ rebuild that property. Be sure to understand the terms of the insurance, including any limitations of coverage.

Business Interruption: While property insurance may pay enough to replace damaged/ destroyed equipment or buildings, how will you pay costs such as taxes, utilities and other continuing expenses during the period when damages occur and the property is replaced? Business interruption (or "business income") insurance can provide sufficient funds to use for fixed expenses during a period of time when your business is not operational.

Key Person: If you and/or another individual are so critical to the operation of your business that it cannot continue in the event of illness or death, you should consider "key person" insurance. This type of insurance is often required by banks or government loan programs. It can also be used to provide continuity in operations during a period ownership transition caused by the death or incapacitation of an owner or "key person."

Automobile: A vehicle owned by your business should be insured for both liability and replacement purposes. The need may also exist for "non-owned automobile coverage" if you use your personal vehicle on company business.

Home Office: If you are establishing an office in your home, it may be a good idea to contact your insurance company to update the homeowners' policy to include coverage for office equipment.

Zoning Contacts:

Yadkin County Planning (336) 849-7905
Jonesville Planning (336) 835-3426
Yadkinville Planning (336) 679-8732
East Bend Planning (336) 699-8560
Boonville Planning (336) 367-7941

Licensing Contacts & Business

Registration Contacts:

Business Link North Carolina
1-800-228-8443 or (919) 715-2864

Business Structure Contacts:

Department of the Secretary of State
Corporations Division
PO Box 29622
Raleigh, NC 27626-0622
Annual Reports Fax: (919) 807-2225
Telephone: 919-814-5400

Taxation Contacts:

NC Department of Revenue,
Sales and Use Tax
501 N. Wilmington Street
Raleigh, NC 27634-0001
(877) 252-3052

NC Department of Revenue
450 W. Hanes Mill Road #202
Winston Salem, NC
(336) 661-6800

NC Department of Revenue,
License and Excise Tax
Post Office Box 25000
Raleigh, NC 27640
(877) 308-9092

Employer Requirements Contacts:

NC Department of Revenue
Post Office Box 25000
Raleigh, NC 27640
(877) 252-3052

Internal Revenue Service Center
Attn. Entity Control
Memphis, TN 37501
1-800-829-1040

NC Department of Commerce,
NC Works
700 Wade Avenue
Raleigh, NC 27605
(888) 737-0259

NC Industrial Commission
430 N. Salisbury Street (physical address)
Raleigh, NC 27611
4319 Mail Service Center (mailing address)
Raleigh, NC 27699-4319
(919) 807-2501 or 1-800-688-8349

NC Department of Labor, Occupational Safety
and Health Division
4 West Edenton Street
Raleigh, NC 27601
(1-800-625-2267)
www.dol.gov

Immigration and Naturalization Service:
6130 Tyvola Centre Drive
Charlotte, NC 28217
(800) 375-5283

Trademark and Service Mark Contacts:

NC Secretary of State
Trademarks Division
(919) 807-2000

The Trademark Assistance Center
600 Dulany Street
Alexandria, VA 22314
1-800-786-9199, 511-272-9250

Additional Contacts:

Small Business Center
Surry Community College
630 South Main Street
Dobson, NC 27017
(336) 386-8121

Small Business Technology Development
Center
Phone: 336.757.3810
Email: sbc@forsythtech.edu
525 Vine Street
Winston-Salem, NC 27101
info@sbtcd.org

www.nccommerce.com for additional forms

Handout information compiled from resources made available from:
NC Department of Commerce NC Secretary of State's Office
US Department of Labor NC Department of Revenue
US Internal Revenue Service US Small Business Administration
SCC Small Business Center US Department of Justice
Small Business Technology Development Center