

Creating an “Area Resource Cooperative”

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(*The information provided in this paper is solely derived from the experience of, and interviews by, the author. The information should not be used as legal advice or proof, and further research and information-gathering should be conducted.)

As the Small Business Administration aptly describes; *"A cooperative is a business or organization owned by and operated for the benefit of those using its services. Profits and earnings generated by the cooperative are distributed among the members, also known as user-owners. Cooperatives are common in the healthcare, retail, agriculture, art and restaurant industries."*

A cooperative can be developed around anything which a community, or “Area” feels it needs: a daycare, an artisan’s shop, a shared agriculture venture such as for food-grade sunflower oil or raw milk. And, there are several initial, basic steps to follow to create a cooperative. At some point, though, the members will have to decide what type of business entity to create; an LLC, non-profit, etc. (These will be discussed more in detail under headings 4 and 5 below.)

By interviewing five cooperative businesses (four Southern Missouri, one Midwest), all agree to these basic principles when forming a joint-venture, cooperative.

- I.** Find out what your community wants and needs
- II.** Form a committee of motivated people
- III.** Create an organization Name and “Mission Statement”
- IV.** Research the various types of legal businesses “entities” and register the company
- V.** Complete and file necessary “legal” documentation
- VI.** Obtain Insurance
- VII.** Plan for and conduct a “Grand Opening” event

The 7 Steps to Forming a Cooperative Business

I. Find out what your community wants and/or needs.

"To start up, a group of potential members must agree on a common need and a strategy on how to meet that need. An organizing committee then conducts exploratory meetings, surveys, and cost and feasibility analyses..." SBA

- A. Four of the five cooperatives held introductory meetings, inviting farmers and producers, people from potential markets (local restaurant owners, shops, etc), city officials... and, just about anybody who wanted to attend. Many also advertised by using local radio and free “shopper” newspapers, as well as pinning up flyers at public areas; libraries, shops, etc.
- B. At the meetings, most were verbal discussions about what the community would like to see develop. All had some discussion about healthy food availability. Two cooperatives had participants complete a survey which could be anonymous if people chose. These asked for honest input about what they themselves needed as well as what they thought the community needed.
- C. Sometimes, two or three meetings would be held before moving to the next steps. This gave people a chance to think more, and, for word to spread. It also reveals the folks who seem very eager to help.

II. Form a committee of motivated members.

- A. From the initial meetings it should become evident who might possibly be an asset to the cooperative's development. This group could be called just about anything; "Research and Development Team", "Steering Committee", or "The Starters". Let the group drive this phase of planning.
- B. This group should possess (but is not limited to) 1) a lead coordinator, 2) someone who can efficiently conduct research – minor law and tax info, 3) a "recorder" or "secretary", 4) a dedicated book-keeper or accountant – this is invaluable to have on board!, and, 5) "professionals" or experienced members from the targeted audience: such as a tomato farmer if the group is trying to work toward mass production to meet a nearby canning facilities' pound requirement.
- C. It should be mentioned that these initial positions may change as the cooperative becomes a legal entity.

III. Create a Name and "Mission Statement"

- A. The Name will eventually be registered, so, choose wisely. Many agree on names which have "clever" acronyms; O.N.E. – Ozark Neighborly Exchange.
- B. With both, try to be as specific as possible, but, also concise.
- C. Mission Statement: this will describe the direction and goals of the group. Examples:
 - 1. *"Increase economic opportunities for local farmers and related businesses. Create a vibrant local support network to promote wellness by increasing access to healthy, local food through developing a community garden, conducting classes and seminars, and building a certified kitchen."*
 - 2. *"We promote local food security by 1) helping producers improve nutritional content of their product through organic and natural practices and improving soil health, and by, 2) increasing food production and distribution through helping to establish local cooperatives."*
 - 3. *"Our mission is to sustain the local communities and economies of Oregon County, Missouri through the local sale and trade of the products, skills, and knowledge of area residents. Through this exchange, we seek to engage community members in addressing their needs and providing solutions to issues that we face together including generational poverty, obesity, economic disparity, and a lack of access to tools such as broadband and specialized healthcare. We actively seek to engage youth in this process. Our local food system is the organizing tool with which we will support a holistic approach to a healthy community life."*

IV. Research various types of legal business entities

- A. This is by far the step which creates the most anxiety for a potential business. But, it's very important to choose the right "entity" for a number of reasons, including employment law, liability, and taxation. Additionally, there are also state and sometimes county regulations which determine the way you do business.
- B. Even after reading this section, it's important to do more research, and to even consider using a lawyer's services. Many times there may be a local lawyer who will offer a bit of assistance for little or nothing. There are also organizations which can help for FREE (see section V, A)
- C. It is important NOT to "skip" this step, because:

"If you start doing business before officially forming an entity, the law presumes that you are either a sole proprietorship (if there is one business owner), a general partnership (if there are multiple owners of the business) or, in certain cases, an unincorporated association. Sole proprietors, general partnerships and unincorporated associations are UNLIMITED liability entities. These entities pose a risk to their owner(s) because someone who sues an unlimited liability entity can reach not only the assets of the business, but also the personal assets of the owners, such as their car, bank account, or home." Coop Law.org

- D. "Chart A" (Quick Overview) lists some of the more common business entities under which cooperatives organize.

V. Complete and file necessary "legal" documentation

- A. This is another subject which causes almost as much grief as figuring out "what" type of entity to be. It's also another area to seek "professional help." This does NOT mean employ an expensive lawyer. There are many resources available to small businesses which offer FREE advice and assistance.
 - 1. Small Business Administration
 - 2. Local University Extension Offices
 - 3. USDA
- B. The Federal government requires some businesses to obtain an Employer Identification Number (EIN). This is primarily for taxation purposes. *"An EIN is a nine-digit number (for example, 12-3456789) assigned to employers, sole proprietors, corporations, partnerships, estates, trusts, certain individuals, and other entities for tax filing and reporting purposes."* (From the IRS website) Please check this website to see if your business needs and EIN: <https://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Do-You-Need-an-EIN>
- C. Most states require the business to register a "Doing Business As" or "Fictitious" name. It's a name other than a personal name. This registered name of your business is required on all government forms and applications, including your application for employer tax IDs, licenses and permits. Check this site to see what is needed for your state: <https://www.sba.gov/content/register-with-state-agencies>
- D. Many states have specific forms and fees depending on 1) the type of business it is, and/or 2) what product/service is provided.
 - 1. For Missourians:
 - a. <http://www.sos.mo.gov/business/corporations/forms.asp#fees>
 - b. <http://s1.sos.mo.gov/CMSImages/Business/ScheduleofCorporationfeesandcharges.pdf>

Note: STARTUP FOR SOLDIERS: All active duty military in Missouri, including those in the Missouri National Guard, may now create new businesses without paying a filing fee with the Office of the Secretary of State. For more information please visit www.sos.mo.gov/business/corporations/soldiers.asp

- E. Articles of Incorporation: contain basic information such as a business name, registered agent(s), and address of the corporation's principal office. Examples:
 - A. <http://form1023.org/how-to-draft-articles-of-incorporation>
 - B. <https://opensource.org/articles-of-incorporation>
 - C. http://www.nps.gov/partnerships/model_articles.htm
 - D. <http://www.northwestregisteredagent.com/articles-of-incorporation-non-profit.html>
 - E. Specific wordage for non-profit: <http://grantspace.org/tools/knowledge-base/Nonprofit-Management/Establishment/articles-of-incorporation>
 - F. IRS non-profit Articles of Incorporation: [https://www.irs.gov/Charities-&Non-Profits/Suggested-Language-for-Corporations-and-Associations-\(per-Publication-557\)](https://www.irs.gov/Charities-&Non-Profits/Suggested-Language-for-Corporations-and-Associations-(per-Publication-557))

Chart A Quick Overview	COOPERATIVE	C-CORPORATION	Limited Liability Corp (LLC)	NON-PROFIT
Purpose	To meet member needs for goods or services, market members' products and earn a return on member investment	To earn a return on owner investments	To earn a return on members' investments; to provide employment for members	To provide services or information
Ownership Structure	Organized by the people who use its services and whose benefits are derived and distributed equitably on the basis of use	For-profit entities to distribute wealth to employees and shareholders	For-profit entities for a single business purpose	Organized to provide programs and services that are a community-benefit
Organizational Structure	Board of Directors elected by patron members	Board of Directors elected by shareholders	LLC Members	Board of Directors
Liability	Limited to members' investment in the cooperative	Limited to shareholder's investment in the corporation	Limited to LLC member(s) investment in the LLC	Limited to assets of the organization
Investment Cost	One fee to establish membership	One or more shares of stock	At discretion of LLC members	Membership Fee
Financial Structure	Retained profits; sale of shares to members and outside investors	Retained profits and sale of shares to investors	LLC members' investments and retained profits	Grants, individual contributions, fees for services
Profits/Gains	Members in proportion to their use; preferred shareholders in proportion to investment, up to 8%	Shareholders in proportion to investment	- LLC members in proportion to investment or by agreement	Retained within the organization
Tax Structure	Members pay on qualified allocated profit and cash received; Co-op pays on nonqualified and unallocated profits	Shareholders pay individual capital gains rate on dividends; C-Corp pays corporate rate on profits	LLC members pay individual rate, or can elect to be taxed as a corporation	Not Applicable
Articles of Incorporation required?	Yes	Yes	Yes	Yes
By-laws OR Operating Agreements required?	Yes	Yes	Yes	Yes
Other Requirements/Considerations	Review Missouri Chapter 274! Many states have separate laws for cooperatives			501 (c)(3) /1023 EZ form

- F. By Laws (Operating Agreements) are the written rules of conduct for the organization. Rights and Liabilities of members are covered, as well as meetings, types and duties of officers, elections, assessments, and more. Examples:
1. <http://form1023.org/how-to-draft-nonprofit-bylaws-with-examples>
 2. <http://www.onestreet.org/starting-an-organization/110-bylaws>
 3. https://www.compasspoint.org/sites/default/files/docs/485_bylaws09202007.pdf
 4. Non-profit by laws: <http://grantspace.org/tools/knowledge-base/Nonprofit-Management/Establishment/nonprofit-bylaws>
 5. Attached (electronic only): By-Laws from Ozark Farmers Agricultural Cooperative

VI. Obtain Insurance

- A. Many small, rural businesses seek local insurance policies. This is sometimes difficult (though not impossible) for local, rural providers to do. In your search for an appropriate provider, ask other local businesses in your area who they utilize, and what coverage amounts they have.
- B. All five Cooperative Businesses interviewed carried a minimum of One Million Dollars Liability insurance. Two businesses carried an additional two or three million dollar policies. Two were based on "retail store" insurance requirements.
- C. The cost of insurance is an expense usually paid for from membership fees, or, in the case of non-profits, from start-up donations or grants. These costs can be included in costs/expenses for the business entity.

* **Remember:** from step II, B: have a reliable book keeper/accountant on board. Having them "work" for the business can also be an expense.

VII. Plan for and conduct "Grand Opening" event

- A. Okay... here it is... the goal you've been working for. Much like step 1, A, it's time to get the word out. Using social media networking, radio, and even flyers and local newspapers... get the word out. Usually allow for an entire month of advertising if possible. Send out lots of reminders!
- B. Food really brings folks together (as indicated by all five interviewed)! Advertise your event with a "pie tasting", or, a potluck of local recipes (made from members of the newly formed cooperative (if possible)).
- C. Music too, attracts folks, especially in smaller rural towns where special events are not as frequent as in larger towns and cities.
- D. Find a noteworthy speaker (rallying for your cause) to give an opening speech or be the Master of Ceremonies.
- E. Ask local merchants, town officials and businesses to donate items to raffle. Use the total dollar worth as an advertising draw.
- F. Here is a link to such an event:
1. http://www.ozarkcountytimes.com/news/article_78c8e6f0-c512-11e5-a811-af7b3604bc4b.html
- G. Remember to follow-up with thank you notes, including business cards, flyers, or additional pertinent information.

Resources For More Information and Inspiration:

SBA's "Starting a Cooperative" (a great primer!) <https://www.sba.gov/content/cooperative>

Missouri Chapter 274: Cooperative Marketing Associations
<http://www.moga.mo.gov/mostatutes/chapters/chapText274.html>

Missouri Cooperative Basics: <http://extension.missouri.edu/p/G901>

Co-Op Law: (fabulous site!) <http://www.co-oplaw.org/topics-2/entity/>

IRS Form 1023 EZ (registering a 501 (c)(3) <http://www.form1023help.com/id3.html>

Missouri Non profit info: <http://extension.missouri.edu/nonprofit/nonprofit.aspx>

Missouri Agricultural Cooperatives; <http://www.sos.mo.gov/securities/pubs/agricultural.asp>

Digital Media Law: <http://www.dmlp.org/legal-guide/cooperative-corporation>

University of California; Center for Cooperatives: <http://www.co-oplaw.org/wp-content/uploads/2012/08/Steps-to-Starting-a-Worker-Coop-CCCD.pdf>

Mother Earth News (Oregon County, MO Cooperative) <http://www.motherearthnews.com/homesteading-and-livestock/food-co-op-sustainability-zbcz1305.aspx>

Citizens Institute on Rural Design (Oregon County): <http://rural-design.org/blog/butchers-bakers-candlestick-makers-co-op-creates-community-rural-missouri>

Each of the below listed names and corresponding emails are of the folks who helped me create this final project. All are adamant supporters of rural community cooperatives and welcome any questions you may have. (In alphabetical order,) I'd like to extend a heartfelt **"Thank you!"** to:

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Ken Boschert (graphic designer) <http://gentlekarma.blogspot.com/>

Patrice Jennings (Ozark Farmers Agricultural Cooperative founder) <http://www.ozarkfarmers.com/>

Rachel Luster (Oregon County Cooperative founder) <http://www.oregoncountyco-op.com/>

Ron Selfors (Sustainable Ozarks Partnership at Fort Leonard Wood) www.sustainableozarks.org/

Wyatt Fraas (Center for Rural Affairs) <http://www.cfra.org/>