



Notice: This guide is for informational purposes only and does not provide legal advice or create an attorney-client relationship. You should contact an attorney to obtain advice with respect to any particular issue or problem.

Negotiating Your Land Lease

In New England, many farmers choose to lease their farmland instead of buying it. It is important to think about what your farmland lease will include and advocate for yourself so that the provisions that you need are in the lease. This guide discusses several of the issues that you should think about including in your lease with the help of your lawyer.

Who is part of the lease?

- Your lease will be an agreement between you, the **tenant**, and the land's owner, the **landlord**.
- The lease should identify the landlord(s). You should make sure that the landlord owns the land and has the right to lease it to you. This information is public and should be available at your county courthouse, county recorder, city hall, or another city or county department. If you are working with a lawyer, he or she can help you with this investigation.

What is the property in the lease?

- Your lease should include a clear description of the **property** you are leasing. Along with the address of the property, you may want to include a sketch of the property or a surveyor's plot.
- Your lease should describe which parts of the land you will have the right to use and any limitations to that use. Think about what you will need access to in order to farm on the property. For example, do you need access to ground water or pond for irrigation? Are you permitted to use the existing structures on the land, e.g., barns, storage sheds or greenhouses? Will there be any shared use/access of the land with the current owner?
- Your lease can give you the right to use farm equipment such as tools and tractors currently on the land, too, as long as you and the owner agree (and include it in the lease).

How long is the lease?

- Your lease should explain for how long the lease will last, meaning how long you will have to make payments to the landlord and how long you will have the right to use the farmland and other property. This time period—the **lease term**—may be as short as one growing season or as long as ninety-nine years.
- Think about your farm needs when considering the lease term. Is the lease an interim solution as you seek to purchase your own farm? Are you looking for a multi-year term that



will allow you to improve soil fertility and build infrastructure? Your needs and goals should guide you in determining the term lease that is right for you.

- Regardless of the lease term, you should make sure there is a way to get out of the lease if it ends up not being right for you.
- Landlords may also request the right to terminate a lease early. Ensure protection for the valuable crops which you cannot take with you if the lease is terminated in the middle of a growing season. For example, provisions could forbid termination until after harvest, guarantee access to the land after termination to harvest the crops, or provide cash compensation for crops not harvested.

How much will you pay?

- Your lease should state very clearly what your **rent** is—how much you have to pay and when.
- The rent may be set so it is the same amount every month. Rent payments can also be variable, for example, payments based on a percentage of the income you make from selling your crops.
- Services can also be provided as payment for rent. For example, you could agree to mow an adjoining field or maintain farm infrastructure in compensation for some or all of the rent.

What can you do on the property?

- Your lease should state **what you can do with the land** you are leasing. You should be sure that the lease includes all the uses you will need in order to farm. Some leases may restrict certain activities, for example letting you grow vegetables but not keep animals or requiring you to follow organic farming practices. All these restrictions and requirements can be addressed in your lease.
- Your lease should also spell out **what changes you can make to the land** you are leasing. For example, can you build a shed or a fence? Do you have to ask the owner first, and who will own the structure if you move off the farm? Again, your lease should spell out what you can do so be sure that it fits your needs.

Who is responsible?

- Your lease should explain who is **responsible** for maintenance and repairs when something happens to a part of the farm. For example, if a tree falls on a fence, do you have to clear the tree and fix the fence? Or is that the landlord's job? Your lease should make your responsibilities and your landlord's responsibilities clear so you don't have to worry when something does happen.
- You should also know that you have some rights no matter what the lease says: if something happens that makes part of the farm unsafe and you let the owner know, the owner must fix it.

- Your lease may also clarify who is responsible for **paying taxes and utilities payments** on the property.

Anything else?

- Leases can include other terms that you and the owner agree on. You should think about what you need and how you will be using the property. Then, be sure that the lease lets you do those things.
- One example is an **option to purchase** the farm. This is what it sounds like: you pay a little extra so that you have a right to buy the farm at some point if you choose to do so. You might want to include this in a long term lease so that, for example, if the owner decides to sell the farm after fifteen years, you have the choice to buy the farm before anyone else does.
- Another example is how you farm the land: you may be able to get a better deal on your lease if you agree to farm in a way that builds the soil and makes the land healthier.

This list should give you plenty to talk about with your lawyer. If you have a question that isn't answered here or are looking for a lawyer but can't afford one, please contact the Legal Food Hub at legalfoodhub@clf.org. And just remember: **leases should always be in writing.**

Additional Resources

- *Land for Good* Build A Lease Tool, <https://landforgood.org/lease-tool-login/>

This guide was prepared by Sara Dewey, Director of Farm & Food at Conservation Law Foundation.

Looking for legal help?

*Contact the Legal Food Hub to see if you qualify for **free** legal assistance!*

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