

Why lease? Good leases offer farmers a flexible and affordable way to start or build a farm operation. A lease can provide adequate security for the farmer. In some cases, it can be a path to ownership. For land-owners, leasing land for farming provides many rewards including active stewardship of the resource. Leasing is not without risks to both parties, but these can be minimized with good planning, documents and relationships.

Types of leases. A lease is a contractual agreement between the owner and user of a property. Different types of leases include:

- a. **Short-term lease.** Typically one to three years; can be a rolling term (always three years, for example)
- b. **Long-term lease.** Can be anywhere from three to 20 years or more, up to 99 years
- c. **Lease-to-own.** Methods for tenant to purchase the leased property at some point
- d. **Innovative models.** For example, a ground lease in which the tenant rents the ground and owns the structures, or multiple tenants on a single property

A longer term offers benefits to both parties. With more security, a tenant is more likely to invest in the property, build the soil and make other improvements. S/he sinks deeper roots into the land and community. The landlord gets a long-term commitment to land stewardship and avoids the hassle and risks associated with new tenants. Some landlord-tenant relationships last generations.

Types of landlords. More people and groups are interested in making land available for farming.

- a. **Private landlords** are individuals and families, for example, retired farmers, estate and second home owners, and farm inheritors.
- b. **Organization and institution landlords** include land conservation groups, religious entities, schools and intentional communities.
- c. **Public landlords** include municipalities, counties, states and the federal government.

What's in a lease? A lease should always be written. To be a legal contract it needs: a) landlord and tenant names, b) property description, c) start and stop dates, d) the "consideration" (rent) and e) signatures. Leases may also address permitted and prohibited uses, maintenance, repairs and improvements, farming/conservation goals and practices, renewal and termination, liability and conflict resolution. Look at examples of farm leases and adapt the sections that pertain to your situation. *See fact sheet on "Elements of a Good Farm Lease."*

Negotiating leases. Do your homework. Know your bottom lines but be willing to be flexible. Most important is building and nurturing the landlord-tenant relationship. Trust and open communication are essential. Regular meetings are helpful to agree on objectives for land management and to work through different views. Always get legal advice before committing to a lease.

(more →)

Resources

Drake Agricultural Law Center,
Sustainable Agricultural Land Tenure Initiative
(<http://sustainablefarmlease.org>)

- *A Landowner's Toolbox*

Land for Good (<http://landforgood.org>)

- *A Landowner's Guide to Leasing Land for Farming*
- *Leasing Land to Farmers: A Handbook for New England Land Trusts, Municipalities and Institutions*
- *Making My Land Available for Farming: Where Do I Start?*

New England Small Farm Institute
(www.smallfarm.org)

- *Holding Ground: A Guide to Northeast Farmland Tenure and Stewardship*

University of Vermont
(www.uvm.edu/farmtransfer)

- "Farmland Tenure and Leasing" chapter of *A Legal Guide to the Business of Farming in Vermont*

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Jason Culver owns and operates a family farm in Dutchess County, New York. He pastures around 50 cattle, makes hay and grows both grains and vegetables. And he does it almost entirely on leased land. For the landowners he works with, Jason creates detailed 5-year plans describing the projects he'll undertake, his investments and the costs of his work. Jason also regularly communicates with landowners to help educate them about his farming practices and his ongoing management decisions, and to check in. He stresses the importance of this regular communication and says it's all part of "maintaining a good working relationship."

Here are some pointers from Jason:

- **Use written leases.** "Avoid informal arrangements."
- **Be sure to include specifics in the lease.** Jason ensures that he has "access 24/7, 365" and he often includes conditions that landowners will make up-front investments, such as covercropping for field preparation.
- **Create a lease term that works for you.** Jason uses a 5-year lease term, with a renewal option after three years.
- **Find the right relationship.** Be sure that you can have a successful relationship with a landowner and that your plans and visions align: "find landowners who appreciate farming."

Henry Smedley photo



Henry Smedley photo

Henry Smedley leases farmland to Jason Culver with the understanding that the land will be managed sustainably. And it's a good working relationship. As Henry describes it, when looking at the property under Jason's management: "He's meticulous. I'm meticulous. It works well." But Henry is also realistic about what it means to have a farmer on his property. "You have to realize that there will be a mess sometimes; a tractor may show up at 6 in the morning. Farming is not about open space. The land is open because a farmer is producing something." Identifying the right type of farmer to work with, creating the right relationship with that farmer through good communication and a sound lease, and doing your homework and preparation as a landowner are some of the keys to his and Jason's success.

Henry advises the following:

- **Identify the right farmer.** Does the farmer demonstrate commitment? Does s/he show up on time for meetings? Are your philosophies on sustainability in agreement?
- **Know what you want and be realistic.** Think about what it will mean to have a farmer working your fields and know what kind of farming will work for you and your property. Understand that the farmer is running a business.
- **Know what you want and be committed.** "You have to have skin in the game." This can mean preparing your land for a farmer or scheduling regular check-ins. Whatever it means, know what level of commitment is required and whether or not it will work for you.
- **Tax and legal considerations.** Research applicable tax and legal issues, such as agricultural assessments or commercial liability insurance. Create a lease that is safe and secure for you and the farmer.