



FARM COMMONS

# Succession Planning Tipsheet

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**DISCLAIMER:** This guide does not provide legal advice or establish an attorney-client relationship between the reader and author. Always consult an attorney regarding your specific situation.

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## I want to transfer my sustainable farm to a successor. Where do I start?

Succession planning can be an immense undertaking. You are creating the future stage for the land, your farm operation, and your family, all of which you likely care deeply about. Where do you begin? From conservation easements, family trusts, and LLCs to capital gains, estate taxes, and gift taxes, it can be easy to get overwhelmed by the complexities and vast array of farm transfer tools and effects. Here are some tips for turning overwhelm and idleness into inspired action.

### **Starting with goals and objectives: Creating a vision for your land, farm operation, and family**

A valuable approach to succession planning is to view it through the lens of three central categories: the land, the farm operation, and you and your family. What is your ultimate vision for each? You can begin the process by creating a set of clear overarching goals and objectives for each of these dimensions. This can assist you in identifying the best estate planning tools and strategies to actualize your ideal vision for your farm transfer. If you choose to work with advisors, having clear goals and objectives can help streamline the process.

#### **Goals vs. Objectives**

Goals and objectives are often used synonymously, but they are different. Goals are long-term aspirations that are loftier and less concrete. Objectives are more specific benchmarks that can be achieved by following certain steps. Setting goals is like deciding on the ultimate destination. By identifying objectives, you carve a clear path to get there.

**First step:** Take some time to answer the following set of questions relating to your vision for the land, your farm operation, and your family. Then craft a set of goals and objectives for each category. Identify action steps to accompany the objectives if any

come to mind. If they don't, this might be a good place to call upon an advisor for suggestions. Use the examples provided to guide you, but be sure to create your own! The examples are meant only as a guide.

**What is your vision for the land?**

- What do you want to happen to the farm property in the future?
- Is maintaining ownership of the land by your family members a priority?
- Does it matter if the land continues to be farmed or farmed in a particular way?

**Key:** Realizing your vision for the land often hinges upon how the farm property is owned and protected now and in the future. Current stakeholders in the land—partners, mortgage holders, landlords, and co-owners—also control the land’s future, so it helps to involve them right away. Here are some questions to help you identify these key players.

- Do you own the land individually or jointly with another person?
- Is the land tied to a mortgage? If so, when will you own it in full?
- Do you lease the land? If so, is there an option for you to purchase it?
- Has the land been transferred to an entity, such as an LLC, that houses the farm operation?

**Example goal: Ensure the farm property continues to be farmed sustainably**

<b>Objective</b>	<b>Protect the farm property from residential or non-farm commercial development</b>
Action	<ul style="list-style-type: none"> <li>• Explore putting a conservation easement on the property to limit development</li> </ul>
<b>Objective</b>	<b>Be sure someone is lined up who will continue to farm the land sustainably</b>
Actions	<ul style="list-style-type: none"> <li>• Investigate entering a land contract or long-term lease with a sustainability-minded farmer</li> <li>• Consider transferring the land to a family trust that can protect it</li> <li>• Consider selling or gifting the land to a family member or other successor trusted with a sustainability vision</li> <li>• Explore transferring the land to the farm operation entity (e.g., an LLC) to help ensure the land and farm operation continue together</li> </ul>

**What is your vision for the farm operation?**

- What do you want to happen to the farm operation if you die or become incapacitated?
- Would you prefer to keep the farm operation in the family or with a known successor?
- As a business, are your farm operations financially sustainable now and into the future, such that the enterprise has value as a business?
- Do you have someone identified who may want to take over the day-to-day operations of the farm? Or, do you have a plan to identify someone?

**Key:** Realizing your vision for the farm operation often hinges upon how it is managed and structured as well as its financial viability. Here are some key questions to answer to help you assess how the status of your farm operation could affect your succession plan.

- How is the farm operation currently owned and managed?
- Do you have business partners?

- Is there a formal legal entity, such as an LLC?
- Do you have an organizing agreement (i.e., an operating agreement for an LLC, bylaws for a corporation, or a partnership agreement for a general partnership)?
- What significant assets does the farm operation have (e.g., machinery, equipment, buildings, livestock, land, intellectual property, etc.)? How much are these worth?
- What debts does the operation have (e.g., mortgages, loans, etc.)? How much?

### Example goal: Ensure continuity of the farm operation after my departure

<b>Objective</b>	<b>Protect my business partners and the farm operation from adverse consequences of my death</b>
<b>Actions</b>	<ul style="list-style-type: none"> <li>• Review the current management and ownership structure of the farm operation and restructure it as needed to encourage better long-term management</li> <li>• Consider transferring assets of the farm operation to a business entity to create continuity of ownership beyond individual ownership</li> <li>• Consider transferring the land and specific farm operation assets to heirs or other successors</li> <li>• Purchase investments and insurance to minimize the consequences of my incapacity or death</li> <li>• Provide for the payment of the estate's taxes, debts, and expenses</li> </ul>

#### What is your vision for you and your family?

- You: When do you want to retire and do you envision maintaining an active role on the farm during retirement?
- You: How much money do you need in retirement, and how do you plan to fund your retirement?
- Family: Are you hoping to provide an inheritance to your children? Do you have a vision for the form the inheritance takes—property or cash? Shared or separate inheritances?

**Key:** Realizing your vision for you and your family is highly interpersonal. Open and honest communication is vital. Here are some key questions to answer to help you grapple with these tough interpersonal issues.

- How are your existing relationships with your family?
- Are there any family members who have animosity or who you think might try to dispute your plan after death? What can you do now to alleviate any tension?
- What if you or one of the beneficiaries dies or gets really sick?
- What if there's a divorce?
- What if a dispute arises between you and/or the beneficiaries?
- What if the farm operation undergoes a disaster or falls into debt?
- Is travel and recreation an important part of your retirement vision? How much money do you need for these opportunities?
- Do you have retirement funds other than the value of your land and operation?
- How do you plan to take care of the unexpected such as medical bills or long-term care costs? Are you planning on utilizing Medicare or other resources that may require asset planning?

- If you have identified a farm operations successor, how much does she need to meet her family income needs? Where will that income come from (i.e., the farm only or off-farm jobs)? How secure are those income streams?
- Would you consider selling some or all of the assets of the farm business to pay for your retirement?
- If you have a non-family successor who will take over the farm operations or land, will your family be upset at the loss of those assets from the inheritance?

### Example goal: Provide security for my surviving spouse

<b>Objective</b>	<b>Relieve my surviving spouse of management duties for the farm operation</b>
Actions	<ul style="list-style-type: none"> <li>• Review the current management and ownership structure of the farm operation and restructure it as needed</li> <li>• Provide management flexibility for my surviving spouse in a trust</li> <li>• Provide for the payment of the estate’s taxes, debts, and expenses</li> <li>• Purchase investments and insurance to minimize the consequences of my incapacity or death</li> </ul>

### Example goal: Have enough money in retirement to visit grandkids occasionally while maintaining current lifestyle

<b>Objective</b>	<b>Retire at age 60, move into apartment in town, and transfer family home to farm operations successor</b>
Actions	<ul style="list-style-type: none"> <li>• Determine accurate monthly budget for current lifestyle, adding in costs for occasional travel and apartment rental</li> <li>• Explore medical insurance options going forward including Medicare eligibility and long-term care insurance</li> <li>• Schedule meeting with farm successor to discuss her family budget and income; determine if farm successor has any flexibility to pay for farm/assets or if all must be gifted to successor</li> </ul>

#### Next Steps

Succession planning can be a long and intricate process. Working through the tough questions and developing clear goals and objectives is an admirable first step. A next step may be to engage with a more comprehensive guide to help you navigate some of the substantive issues. Many farmers use AgTransitions—<https://www.agtransitions.umn.edu/>—a free online resource designed to help farmers and ranchers develop a succession plan. Plenty of other resources are out there too. Ask around to other farmers or ask your extension office what they recommend.

Regardless of your next step, here are three truths about succession planning to keep in mind through the process:

- There’s no single way to transfer a farm. The more personalized it is to your situation, the better for all involved.
- Farm succession involves complex interpersonal issues. Being clear about your plan and having open and honest conversations can help set appropriate expectations for everyone involved.
- Advisors are there to help. Don’t feel you must do it on your own. A farm needs to work with advisors such as financial planners, insurance agents, and attorneys to get necessary guidance. A good approach is to start with someone you trust, perhaps someone another farmer or your extension agent recommends. Then build your team of advisors as issues or questions requiring specific expertise arise.