

### Introduction

It may seem obvious that a lease should identify what is being leased, but not all lease agreements do so adequately. The purpose of a good description of the premises is to clearly and thoroughly identify what is being leased so that the parties to the lease—as well as any third party such as an appraiser, a judge, or subsequent owner—can easily identify what’s included and understand its condition at the outset of the lease. Providing a clear written description as well as a visual representation of the leasehold will avoid awkward discussions later about exactly which land and infrastructure is included in the lease agreement.

At minimum, the description of the leased premises should include an address and a description of the boundaries. Ideally, a map, annotated satellite image, plot plan, and/or diagram will be attached as an appendix to the lease document. For some agreements, simplicity is fine. Others require a lot more information and detail.

**The premises includes everything that is being leased at the time the lease begins.** It could include an entire property. But a landowner could be leasing only a portion of his or her property such as a certain field or building. Sometimes *premises* and *property* are used synonymously; the distinction could matter. The premises could include buildings and other structures such as wells and fencing. Leased equipment could be part of the premises (or could be contained in a separate lease). A “whole farm” lease could include a residence, tools, even livestock in the premises. *Note that any new structures or improvements to structures that are not included at the time of signing the lease are not part of the original premises.*

### Written Narrative

**Strive for an accurate and thorough description of what is being leased.** Simple premises, such as a hay field, can be adequately described in a few words (“the southwest corner hayfield at this address”). Every written description should include references to landmarks such as roads, fences, etc. that will clarify where the exact edges of the leasehold lie. More complex properties need more detailed language such as a written description of the land, buildings, animals, equipment, and whatever other features are included in the premises. The written portion could consist of or include a description from the deed. The narrative can be a part of the lease itself or can be included as an attachment that is referenced in the lease.

A legal description of a property and/or reference to the deed is fairly common in a farm lease, and especially important where an option to purchase or right of refusal is included in the lease.

### Maps and Photos

**Include visual representations.** With many farm leases, it helps to include some visual depictions of the leasehold such as assessors’ maps, aerial/GIS photos, plot plans, architectural renderings, or hand-drawn sketches. Photos, including detailed close-up pictures of structures can be important and useful both for identifying which structure is being leased and its condition at the beginning of the lease term. Photos that document the condition of equipment that is being leased are also important.



## Baseline Conditions

**Describe the conditions of the leasehold.** The description of the premises at the commencement of the lease serves as the baseline for both parties. This documentation may include a natural resource inventory as well as details on the structures on the premises. These descriptions provide a baseline for monitoring and measuring changes. A description of baseline conditions can include:

- Condition of buildings, fencing, gates, stone walls
- Location of field edges
- Particular trees or other vegetation
- Water resources, including any tests; water lines, irrigation, wells, ponds
- Trails, roads, lanes, culverts, bridges
- Archeological features
- Soil types, quality, and any soil tests

Establishing baseline conditions helps both parties down the road if there is any question about “normal wear and tear” or “failure to maintain.” It can help with enforcement and settling disputes, as well as help both parties to plan for repairs. Procedures for monitoring should be clearly set forth in the lease. See [Land Use Management and Stewardship Plans Fact Sheet](#).

## A Residence

**Consider the options for a leased residence.** If the leased premises includes a dwelling, various laws apply. Every state has landlord-tenant statutes; you can find them online. They include a requirement that residential dwellings be habitable, and that repairs are taken care of, for example.

Premises that include a residence can be addressed in two ways in a lease. In a “whole farm lease,” the entire premises are included in a single lease document. The advantages include having only one lease, and a single rent payment. A disadvantage is that the one lease could wind up being complex and lengthy.

Some attorneys encourage a separate lease for the residence and its immediate surroundings. The residential lease would conform to that state’s legal requirements to address tenants’ (and landlords’) rights. Often the provisions for maintenance and repairs, for example, are quite different for a residence than they are for farmland.

Separate leases can be very handy in a couple of situations such as if the tenant finds other living quarters nearby but wants to keep leasing the land and farm buildings, or if the tenant wishes to stay in the residence but no longer lease the land and farm buildings.

A disadvantage of having multiple leases is that there are two premises to keep track of. In the case of a house on the farm, the “premises boundaries” between the house and the other leasehold must be clear.

**Land For Good** ensures the future of farming in New England by putting more farmers more securely on more land. We educate, consult, innovate and advocate with and for farm seekers, established farmers, farmland owners, and communities to navigate the complex challenges of land access, tenure and transfer. For more resources and information, visit our toolbox at [landforgood.org/toolbox](https://landforgood.org/toolbox). For help with leasing farmland, contact us at [landforgood.org/contact](https://landforgood.org/contact).

