Land Use, Management, and Stewardship Plans
Leasing Fact Sheet

This fact sheet does not address all legal concerns and is not a substitute for legal advice.

Introduction

What is a land use, management, or stewardship plan? In agricultural leases, land use, management, and stewardship plans guide landlords and tenants toward achieving shared goals related to the natural and built features of the leased property. Plans go by different names and types, and there is no set plan that works for every situation.

A plan should be based on the circumstances of the land, goals of both parties, and type of farm operation. What's important is what is in the plan and the process the parties undertake to develop and implement it.

In some situations, it's adequate for the lease itself to specify, for example, "generally accepted agricultural practices," "sustainable agriculture," or "organic certification." But often it makes good sense for the lease to reference a separate plan, sometimes as an attachment to the lease. A referenced or attached plan is more flexible and easier to change than the lease itself.

Many leases—especially longer-term agreements and those for more complex sites—benefit from a written plan that addresses the overall long-term health and stewardship of the farm property. A plan is a guide that enables the landowner and farmer to work together. It should be seen as a living document that adjusts to and reflects the parties' intentions and relationship.

Benefits of a Plan

Learn the benefits of including or referencing a plan document in the lease agreement. Most farmers know the benefits of farm planning—from budgeting to crop rotations to equipment maintenance. As a tenant, a farmer is responsible for the leasehold itself. A plan for managing the premises is a valuable tool for both the farmer and the landlord. It can be a way of stating shared goals about the site, and communicate how both parties view stewardship. Additional benefits include:

- Explicit statements of agreement about the scope and specifics of practices and activities on the premises
- Guidelines for managing the site's resources and for accomplishing landowner and farmer site-related objectives over time
- Establishing baseline conditions
- Providing a context for the landowner and farmer to explain concerns and aspirations
- Helping third parties such as lenders, certifiers, easement holders, and the public understand and gain confidence in the farm's use and management.

Developing a Plan

Develop a well-thought-out plan that meets the interests of both parties. A land use plan is not a detailed prescription for how a farmer should specifically manage his or her operation.

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A well-thought-out plan might start with general principles: overall stewardship goals such as “maintaining and enhancing the long-term health of the site’s soil and vegetation” or “preserving the historic and cultural legacy of the property.” Goals articulate ways to address the principles. Practices include activities a farmer implements on the farm to accomplish the goals. A land management plan may not (and usually should not) get to the detail level of practices.

There are two basic approaches to farm plans in the context of a leasehold. The first is where the farmer prepares and is responsible for the plan. The landlord is informed about it and may be entitled to review it. At minimum, the farmer should make sure the landlord is apprised of the farmer’s basic approach and any problems or pending or proposed repairs, improvements or significant changes in the operation.

The other approach is a plan developed and overseen by both parties. Landlord and farming tenant work on the plan together. They agree on who is going to be responsible for what repair or improvement during what time period. The jointly identify site challenges such as the spread of an invasive plant, or areas of erosion. This does not mean the landlord has a say in the tenant’s daily farming decisions. A plan should not “micro-manage” the farmer by specifying specific activities, although if there are certain required or prohibited practices, these should be included.

Often, establishing baseline conditions—documenting the condition of all elements of the leased premises at the commencement of the lease term—is sensible, if not required. A baseline conditions component could include narrative descriptions, data, photos, and/or inventories. For example, photos showing the barn gutters in poor condition at the start of the lease will avoid different recollections later and make it easier to agree on their repair as part of a site management plan.

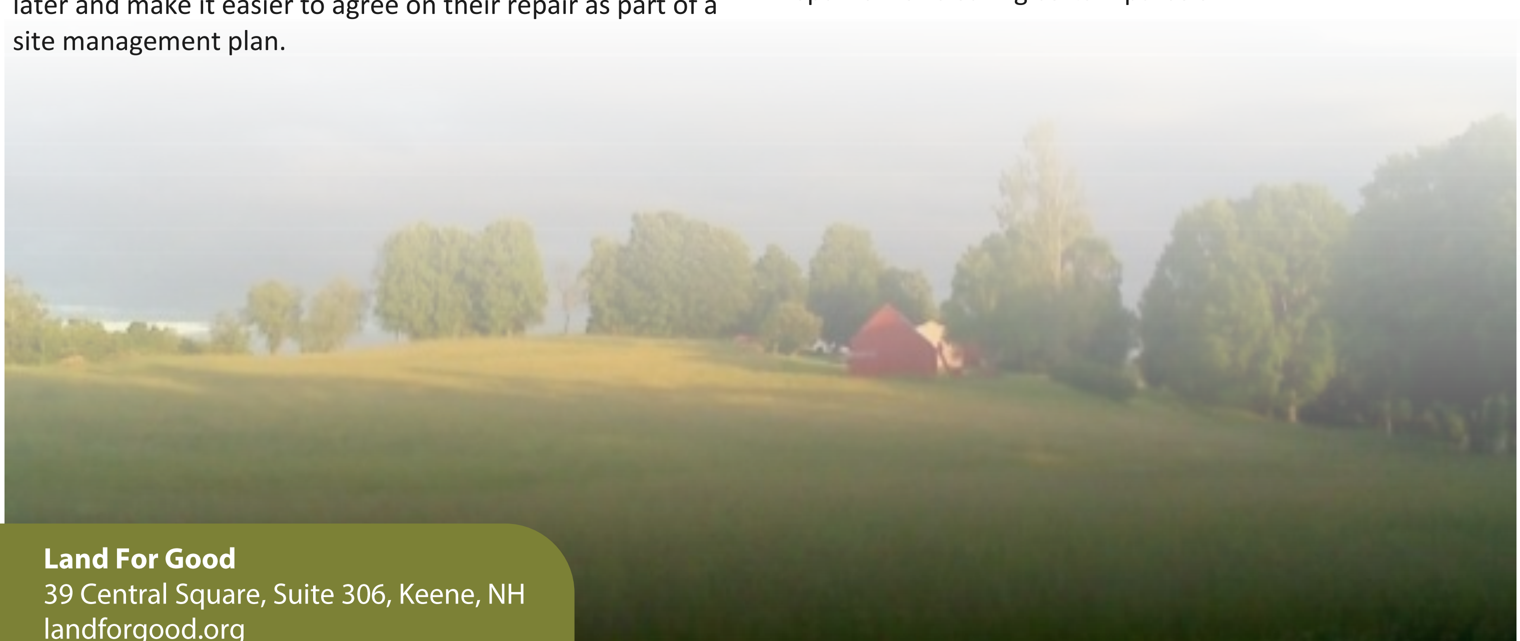
A land management plan needs to harmonize with the lease itself. The plan should not require or permit something that conflicts with the lease terms. It should reflect the realities of the lease. For example, a farmer cannot be expected to significantly improve soil fertility with a one-year term. Farmers with longer lease terms are more likely to invest in the land and to see a return on that investment. Also, tenants and landowners need to understand and account for any financial impacts of a land use, management or stewardship plan.

What’s in a Plan?

Decide what to include in a plan and at what level of detail. Typical areas to address include:

- Soil management: conservation and quality
- Water management: access, quality, conservation, wetlands and waterbodies, drainage and flood control
- Wildlife and wildlife habitat
- Vegetation, including management of invasive species, field edges and buffer zones
- Forest resources
- Waste and nutrient management
- Built features and infrastructure: structures, stone walls, roads and farm lanes, fencing
- Historic and cultural features: aesthetics, views, archeological sites
- Recreation: hiking, hunting, fishing, etc.

Some plans will get rather specific about which fields may be cultivated, or what types of animals are allowed, if this is not already specified in the lease itself. For example, a landlord may prohibit hogs. A plan might set goals for barn repair or for clearing certain parcels.



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Type of Plans

Determine the type of plan that makes sense for your situation. Most plans fall within three categories:

1. Management systems are overall frameworks that guide farm operations. Examples include ecological agriculture, biodynamic agriculture, permaculture, and integrated pest management (IPM).
2. Certification Programs are specific, measurable, and observable standards that usually require record keeping systems. Organic certification is a prominent example.
3. Farm Planning Tools include a National Resource Conservation Service (NRCS) Conservation Plan, whole farm planning, and Holistic Management. One of the simplest ways to address resource management is with an NRCS Conservation Plan. In many cases an NRCS staff person or an accredited third party will come to the farm and prepare a plan at no charge. The benefits of a Conservation Plan include eligibility for cost sharing for conservation improvements, payments for providing environmental benefits, technical assistance, and low- or no-interest loans, rental payments.

Depending on the type of plan, it should address the following questions:

- What are the farmer's and landowner's goals and objectives regarding land use and stewardship? Are the parties on the same page and if not, how can they get there?
- What level of detail is needed and acceptable to both parties?
- How will monitoring and enforcement take place and by whom?
- What is the process for changing or updating the plan?

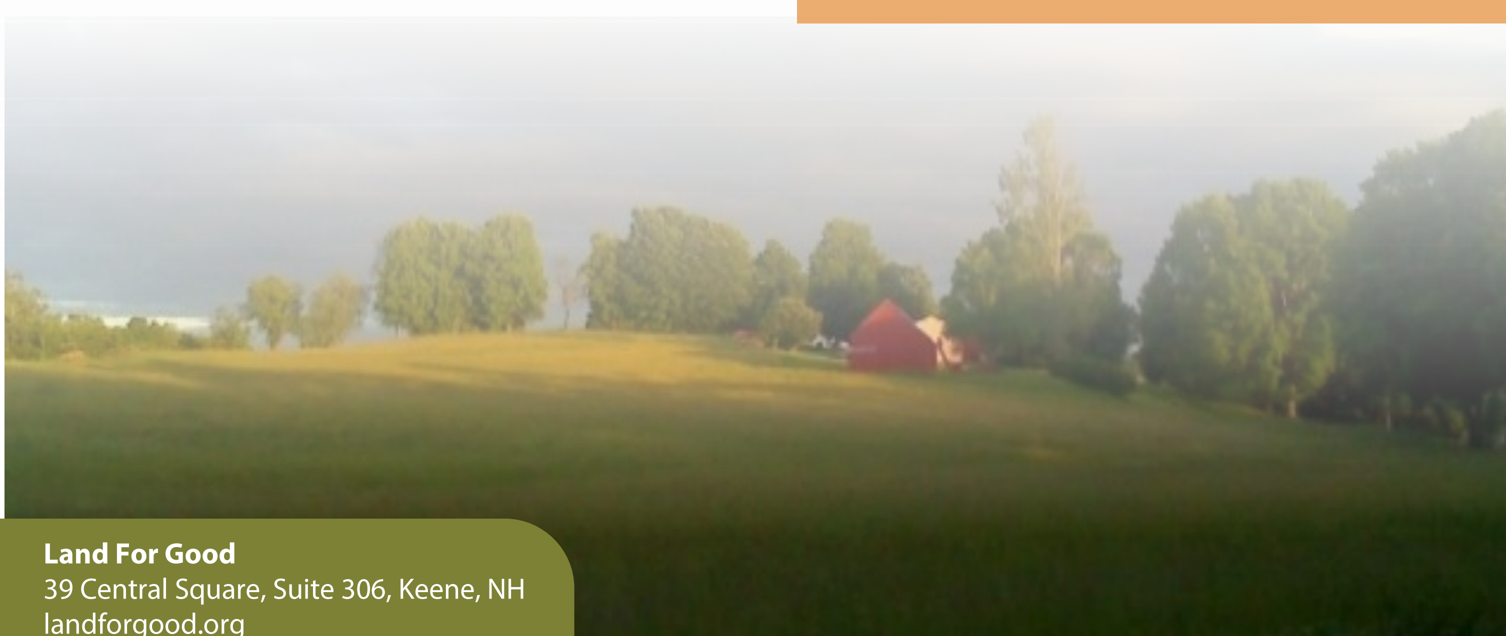
Monitoring and Enforcement

Agree on the role of each party in monitoring and enforcement. These can be tricky aspects of the landlord-tenant relationship, but they don't have to be contentious. The best practice is to avoid conflict by proactively communicating about the plan. Meet regularly, if only by phone or email. Walk the site annually. Bring problems to the immediate attention of the other party. Regular meetings between the landowner and the farmer are one of the most effective methods to review the past year, plan for the coming season, identify any areas of concern, and reaffirm shared objectives.

One challenge is if the landowner is not familiar with farming and is therefore not able to judge whether a plan is being implemented as agreed. Sometimes a third party is brought in to monitor and report back to the landowner. On the other hand, farming tenants don't want a landlord (for example a retired farmer) second-guessing each site management decision or activity.

Depending on whether and how a plan is referenced in the lease, a violation of the plan may trigger default. Before getting to that point, the parties should engage in good-faith dialogue about the situation.

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. For help with leasing farmland, contact us at landforgood.org/contact.



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