

### **Topic III. Non-traditional tenure approaches and partners**

#### **Learning objectives**

1. Become aware of and explore different kinds of non-traditional options, and their advantages and disadvantages.
2. Understand how to approach possible tenure partners.
3. Explore public policies and implications with respect to non-traditional options and future changes or needs.

#### **Learning outcomes**

1. Knowledge about different non-traditional land tenure arrangements and challenges and opportunities for appropriately expanding their use.
2. Confidence about exploring alternatives to purchasing and short-term leases.
3. Knowledge about resources available for more information and next steps.

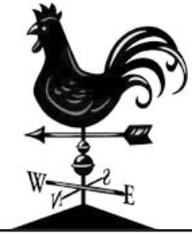
#### **Key points of information**

- Multiple factors including escalating land costs make it more and more difficult for farmers, especially new farmers, to find and purchase land or obtain secure tenure.
- Alternatives to traditional land tenure practices in the United States—principally ownership by the primary operator and his or her family, and short-term lease arrangements—are becoming increasingly important to maintaining numbers and diversity of farms.
- New landlords and landlord-tenant relationship possibilities are emerging.

#### **Why alternative models?**

As land values continue to rise and development removes land from agricultural production, it becomes more difficult for farmers—especially new farmers—to find and purchase farms or land for production based on their farm income.

In addition, an increasing number of farm entrants do not come from farming backgrounds and access to land may be even more difficult for them since retiring farmers are often unwilling or at least less motivated to transfer their farm to a non-relative. In addition those without farming background require greater education and training in the practical aspects of farm production and management which may be hard to find. The number of new farmers coming from non-farm backgrounds varies significantly by region and type of farming enterprise, however many agricultural educators and agency personnel who train and assist new farmers note that from about a quarter to virtually all the entrants with whom they work did not grow up on a farm or doing a substantial amount of farm work.



This module includes emphasis on access to land without ownership. Whether individual ownership of land is an eventual goal or not, farmers need to consider a range of options for getting started and growing their businesses that do not require capital investment in land.

In addition, the culture of land ownership in general, and farm ownership in particular needs to be re-examined by society as a whole. Despite the Jeffersonian ideal of small farm landowners, U.S. agricultural history is one of both ownership and non-ownership tenure. It may be unreasonable and unnecessary to assume that full ownership is a goal for the future particularly if society decides that having a large number of independent farm operators as primary producers is a desirable outcome amidst shifting agricultural land ownership patterns.

Income from agriculture traditionally has been low for the majority of farmers who consider the work, lifestyle, independence and situation for their families as important as net income. However, if the operators of the land cannot afford to own it, then communities, individuals and organizations need to develop practical, long-term strategies to value and support agricultural production and producers.

For most citizens, a comprehensive assessment and application of alternatives to the owner-operator land tenure system of agriculture in the U.S. is not a priority. However, with the projected 400 million acres of agricultural land changing hands in the next twenty years, the time is ripe to explore alternative models for farm access and transfer. This module does not specifically address public policy. For policy recommendations, see <http://www.uvm.edu/farmlasts>.

### **New landlords and new partners**

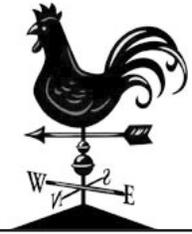
Many farm landlords are farmers or former farmers themselves. These landlords are familiar with farming and are embedded in the culture of rental agreements. Some handshake agreements endure for many years—sometimes across generations—based on trust and mutual understanding.

As land become less available, especially in urbanizing areas of the country, the pool of available land is not sufficient or affordable (even to rent) for entering farmers. At the same time, communities are increasingly concerned about the sources and quality of their food, and about the preservation and management of agriculturally capable and other open land. This makes for new win-win arrangements between farmers and citizens, community groups and public entities—landlords who do not farm and who don't know much about farming.

What are the interests of these non-traditional landlords? Every landlord is unique, but there are several strong emerging themes among non-farming landowners. Many have strong conservation values and goals. At the same time, they may be relatively unfamiliar with farming practices and realities.

#### **Who are these new landlords?**

- a. Widows and other heirs (children) of farm operators
- b. Second home and estate owners
- c. Land trusts and other conservation organizations
- d. Conservation buyers
- e. Churches and religious orders



- f. Municipalities with conservation land/open space
- g. States with institutional and other properties with an agricultural history or capability (e.g., state mental hospital and corrections facilities), state-owned conservation and open space properties, and state-owned parkland
- h. Federal lands such as park land, rangeland, forest land and Tribal lands
- i. Community farms
- j. CSA members
- k. Intentional communities (e.g., co-housing)
- l. Agriculturally focused subdivisions (Agritopia)
- m. Educational and other non-profit organizations
- n. Schools, colleges and universities
- o. Incubator farms

### Alternative models

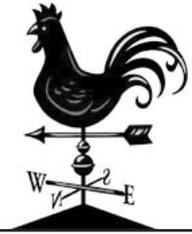
With these less traditional landlords comes the possibility for new and different land use agreements. The following are examples of innovative arrangements that can offer unique benefits to both landowner and operator.

1. **Lease from public (federal, state or municipal) entity:** May be short- or long-term agreements. The lease agreement on public land does not automatically mean public access. In some states, the agreement is a license, not a lease, and its term (number of years) is limited by law. Eleven Western states allow grazing on state land, with specific use regulations. Hawaii has a system of “agricultural parks” where the state offers long-term leases to parcels organized like an industrial park, with utilities brought in by the state.

At the federal level, approximately 2/3 of federal lands under four separate agencies are subject to grazing right by private individuals. Grazing on public lands is a complex issue; this curriculum does not address it.

Another complicated topic is agricultural uses of Tribal lands. See The [Indian Land Tenure Foundation](#). The ITLF also has a land tenure curriculum, *Lessons of Our Land*, which discusses the history and issues surrounding Indian land tenure. See also the U.S. government website titled “[Tribal Land and the Environment](#)”, which lists links to American Indian offices and information resources about tribal lands, their geology, natural resources, and management.

Cuyahoga Valley National Park has fulfilled its mission of returning to its historical roots of a working agricultural landscape, while maintaining environmental stewardship through long-term lease that include conservation-related expectations for land care. See Case Studies, on page 27, Countryside Initiative in Cuyahoga Valley National Park, Ohio.



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At the county or local level, open space may be leased for agricultural operations. See [Boulder County, Colorado](#) for an innovative system of leasing county land for agriculture.

- 2. Purchase of land with an agricultural conservation restriction:** A conservation easement (also known as a conservation restriction) is a legal agreement between a landowner and a conservation land trust or government agency that permanently removes the right to develop the land while the landowner continues to own it. A conservation restriction may impose additional limitations and/or affirmative obligations to protect the natural, scenic, open-space or productive values of real property.

An **agricultural conservation restriction** is specifically intended to protect the land for agricultural use. There are public programs that use state and federal dollars to purchase the development rights on eligible agricultural properties. Some easements are for a specific amount of time (e.g., ten years); others are in perpetuity. There may be tax benefits to landowners who sell or donate their development rights.

The easement is held by the government or by a qualified conservation organization. It is recorded with the deed, and future owners are bound by its terms in perpetuity. The land remains privately owned and on the tax rolls, but at a lesser tax valuation because it cannot be developed. These easements typically exclude houses and farm structures.

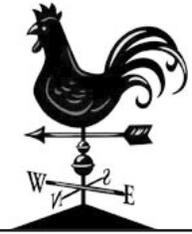
Beginning farmers benefit because the residual value of a property with an easement is theoretically its agricultural value, and therefore more affordable. Unless the land is linked to housing that has affordability restrictions, or housing is otherwise available and affordable, this can be an issue in “high rent” districts.

- 3. Fee title purchase and sale of conservation restriction (easement):** In this scenario, a buyer of a farm property negotiates the sale of a conservation restriction at the time of purchase. This serves to simultaneously preserve the property and provide the buyer (a new farmer) with an infusion of capital to offset the market rate purchase of the property.
- 4. Community land trust:** A community land trust (CLT) is a non-profit organization that owns real estate for the benefit of the community. The CLT is democratically controlled and serves to provide long-term affordable housing and land use opportunities. Most CLTs focus on housing, but some also hold and lease farmland. A CLT makes land more affordable because the common land is held by a trust while individual families or farmers hold long-term leases on a plot of land. They negotiate long-term (99 year) renewable ground leases, while the farmer purchases the house and other farm structures on the leased land. (This is not dissimilar to a condominium situation in which the occupant owns the home but not the land under it.)

The CLT places affordability limitations on the leasehold and on the deed to structures on the leasehold so that both land and buildings remain affordable to subsequent lessees and owners. There are formulas to calculate future price as well as the owner’s equity contributions. When the farmer wants to move on, he or she sells the house, and transfers the lease to the next lessee.

See also Case Studies, below, with the Caretaker Farm and Indian Line Farm examples

- 5. Shared equity arrangements:** in a shared equity agreement, the operator shares ownership with others (investors) who share appreciation in the value of the property. The investors may receive a return on their investment by the future sale of their portion of property (to the operator or to the next owner-partner). Ownership may be structured as an LLC or a corporation.



6. **“No-cost” lease or barter agreements:** These may be in-kind exchanges or barter (e.g., hay for mowing/making). The landowner may pay some maintenance (lime, fertilizer); barter for plowing services, wood, mulch hay, vegetables/other product, etc. In some situations, landowners receive tax advantages from having their land in active agriculture, so they are happy to have a farmer use the land without charge. There are examples of private landowners and utility companies paying farm operators to keep land (for example under power lines) grazed.
7. **Incubator farms:** Incubator farms have the common goal of giving beginning farmers hands-on training in agricultural practices in a structured way, with oversight and mentorship, on a plot of land that is given, loaned, or leased to them for a certain period of time. In this way, a new farmer can gain experience as a farm operator without facing the level of risk he or she might deal with when farming alone. The basic concept is that the program or mature farmers host and train new farmers as they grow crops, share equipment, establish their markets, and learn from their mistakes, successes and fellow producers in the program.

In most incubator farms, the beginning farmer’s rent for land is partially or totally subsidized when the start. In some cases, rent is gradually raised until it achieves market rate. Once the business is viable, the now mid-level farmer moves off of the incubator farm and finds his or her own land (Hubbard 2006:1).

An Incubator farm program is run by the [Intervale Center](#) in Burlington, Vermont which manages 350 acres, supports over a dozen individual farms and nurtures the connection with community by increasing the availability of local and organic food.

The [Agriculture and Land-Based Training Association \(ALBA\)](#) in the Salinas Valley, California is one of the oldest and most successful examples of a program which helps aspiring farmers with limited resources gain access to land. ALBA, meaning dawn in Spanish, serves a large and active Latino audience of small-scale farmers by providing business and marketing training as well as owning and operating two incubator farms.

See also The [New American Sustainable Agriculture Project \(NASAP\)](#) and the [North Carolina Farm Transition Network](#).

8. **Transfer of Farming Rights:** In this innovative model, a farmer purchases an easement from a landowner that guarantees his or her right to farm the land in perpetuity. California Farm Link is researching this model which to date has limited application, but holds promise as a “non-traditional” relationship between landowner and land user.
9. **Community Supported Agriculture (CSA):** In some cases, CSA farms have mobilized donations from CSA members to enable a non-profit organization or landowner group to purchase land that is then leased back to the CSA farmer. In other cases, CSA members have purchased a conservation easement with purchase option, while the farmer purchased the remaining farm value.

An example of this strategy is the [Live Power Community Farm](#) in Covelo, California which emphasizes community involvement and long-term stewardship. CSA members and interested foundations and individuals raised \$95,000 to purchase an easement.



Another example is Swallow's Nest CSA in southern Wisconsin which grew over 14 years to serve 200 families but struggled with not having secure access to quality land. The solution came when one of their CSA members bought a 40-acre farm and rented them 27 acres on the way to a longer-term lease.

See also [Prairie Crossing](#).

- 10. Other private organizations** (e.g., educational non-profits, religious groups, tribal groups): Educational non-profit organizations are being formed around farming enterprises in order to accomplish multiple goals such as connecting people and communities to their food, preserving farms and conserving natural resources.

For example [Maverick Farms](#) in North Carolina is a non-profit educational center for food and farming which combines a CSA with educational and outreach projects in the community.

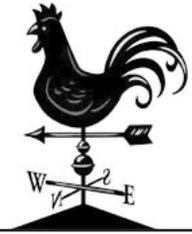
As shown in the [Monk Farm Case Study](#), other groups which own land may be interested in leasing it to farmers under certain stipulations that match their beliefs. A monastic order in the Northeast owns land that for many years was leased to a local dairy farmer. But the brothers want to transition to organic management. If the current tenant is unwilling to change his production practices the brothers may seek another tenant.

- 11. Sharemilking:** In a sharemilking agreement, an entering farmer operates a dairy farm for an agreed share of farm income and expenses while the farm owner provides the land, cows, machinery and equipment, and steps back from daily chores and management. The arrangement offers beginning farmers a way to build assets (typically young cows) and dairy management skills without requiring a large amount of capital input at the early stages of their careers. Sharemilking can benefit sharemilkers and land-owning farmers, but both parties must agree to arrangements in writing. The parties must make several decisions besides how to split the milk check.

[Krusen Grass Farms](#) in southeastern Wisconsin is an excellent example of a sharemilking agreement. Factors which make sharemilking successful include a farm that is functioning well and profitable, and commitment on the part of the landowner to mentor while passing on some areas of farm management.

**Activities:**

1. Have students select one or more models; assume role of beginning farmer or landlord and list goals and concerns from that point of view.
2. Break into small groups to discuss how landowner and society values affect farm succession, e.g., environmental vs. productivity goals, perceptions of and emotional ties to ownership, the view and use of land as a commodity. Have each group summarize main points to the class.
3. Research a model, find examples to present to the class.
4. Write a short paper on a model and explain why it interests you.
5. Search for CSA farms in your area and visit their websites to see if they are set up in a creative way.



### Guest speakers

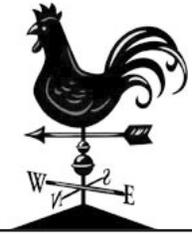
1. Local University, county Extension office or agricultural lender.
2. Someone who works in alternative land lease arrangements in your area.
3. A farmer to share his/her story of how s/he acquired land and resources.
4. A representative from alternative housing providers, area community land trusts or conservation organizations.
5. County board members, state legislators and rural development personnel who can speak to agland preservation in combination with innovative lease agreements.

### Discussion questions

1. Pick a model and discuss the relative advantages and disadvantages of it from the points of view of both the existing farmer (landlord) and entering farmer (tenant).
2. What are the biggest challenges to the entering farmer in adopting one of these models?
3. What problems in current land tenure do these models address? How?
4. What might be other models and approaches? Which one(s) might work best for you in your farming career?
5. What are some of the issues or widely held perceptions that are brought up by the concept of long-term non-ownership tenancy? How could resistance by the community or tenant farmer be addressed and resolved?

### Case studies

1. The [Monk Case Study](#) gives an example of religious order land ownership and leasing.
2. The [Guralski Case Study](#) is an example of a successful dairy farm startup using the Incubator Farm model.
3. The [Cuyahoga Case Study](#) describes a partnership between the non-profit Cuyahoga Valley Countryside Conservancy the Cuyahoga Valley National Park, to co-manage the Countryside Initiative program to provide long-term leases to farmers to renew and farm in a productive and sustainable manner 20–25 farms within the valley.
4. [Caretaker Farm](#) is a model for non-ownership tenancy for other farmers who wish to affordably ensure that their farm stays in agriculture. A combination of selling development rights to the state and donating equity in land to a CLT in exchange for a 99-year renewable lease “assures the farm’s affordability as a working farm in perpetuity.”



5. The [Indian Line Farm](#) Case Study gives another example of a CLT being involved in the preservation of a CSA farm via long-term lease to the farm operators, giving illustrative details about the lease agreement and working in stipulations for residency, organic practices and land-use fees.
6. An example of an Incubator farm program is the [Intervale Center](#) in Burlington, Vermont. Intervale manages 350 acres, supports over a dozen individual farms and engages in local and organic food system networking. Another incubator farm model is the [Agriculture and Land Based Training Association](#).
7. Waterpenny Farm, an organic CSA farm in Virginia, was started by an innovative two-year trial period between the landowner and new farmers, followed by a more formal 40-year lease agreement, [http://www.rodaleinstitute.org/a\\_good\\_deed](http://www.rodaleinstitute.org/a_good_deed)
8. Peacework Organic Farm is a CSA operating on land owned by the Genesee Land Trust <http://www.newfarm.org/features/2005/1205/peacework/henderson.shtml>

### **Additional resources**

University of WI Cooperative Extension Bulletin A3670, [Sharemilking in the Midwest](#), by Larry F. Tranel

The University of Wisconsin Center for Dairy Profitability has a computer spreadsheet sharemilking agreement that can be easily modified. Sharemilk is available from the UW Center for Dairy Profitability, 1675 Observatory Drive, Madison, WI 53706. It is available in Lotus and Microsoft Excel versions.

Hubbard, Paul, [Incubator Farm Summary](#), 2006. available online at:

ALBA is featured in an article by the Rodale Institute at <http://newfarm.rodaleinstitute.org/features/2005/0505/alba/index.shtml>

Resource and legal information source for Tribal land ownership and lease agreements, <http://www.astribe.com/Realty.html>

For more information about CSA farming and land access and preservation see *Sharing the Harvest, Revised and Expanded, A Citizen's Guide to Community Supported Agriculture* by Elizabeth Henderson and Robyn Van En