

# MILWAUKEE COUNTY AGRICULTURAL LAND LEASE POLICY

(Effective 01/2020)

The Milwaukee County Department of Parks, Recreation and Culture (DPRC) leases approximately seven hundred sixty (760) acres of undeveloped parkland for agricultural uses. Although most of the land lies along the Root River and Oak Creek Corridors, there are several parcels of leased land in Bender and Franklin Parks, as well as in the northern portion of the County. All of the County-owned parcels leased for agricultural uses are located within proposed recreational sites or floodplains, or in primary or secondary environmental corridors.

DPRC is charged with administering and managing the agricultural lease program. DPRC is also responsible for setting agricultural land lease rates and prescribing conditions that will facilitate the County's natural resource management objectives.

At present, sixteen (16) individuals rent Milwaukee County parklands for agricultural purposes. The administration and management of these leases is based on the DPRC's Agricultural Land Lease Policy. This policy was originally established in 1995, modified in 2004, updated in 2009 pursuant to Resolution File No. 03-547(a)(b), and updated in 2019 pursuant to Resolution File No. 19-341. In addition to making the agricultural lease program systematic and equitable, DPRC's Agricultural Land Lease Policy addresses a number of important issues including:

- Ensuring that impacts on the environment from agriculture such as nutrient depletion, soil erosion, and the discharge of fertilizers and pesticides to waterways are minimized.
- Standardizing the process for awarding leases with priority being given to County residents that actively farm.
- Establishing rental rates comparable to those charged in the southeastern region of Wisconsin based on USDA & DATCP statistics. Per Resolution File No. 03-547(a)(b) non-County residents pay a higher rate.
- Directing rental revenues to assist in the administration of DPRC's agricultural/natural lands management program and to furnish funds for the acquisition of additional parklands.

## **Recommended Terms**

The following uses of any rented park parcel will be considered on a case-by-case basis under the conditions of a DPRC Permit for Special Land Use:

- Parcels used for grazing or the pasturing of livestock.
- Parcels not plowed or planted, but used only to harvest marsh hay.
- Parcels rented for small-scale agricultural plots.
- Parcels rented for growth of hemp

The following items will be addressed in each agricultural land lease for those County-owned parklands that are rented out for the purpose of cultivating annual and perennial agricultural crops:

**1. Length of Lease:**

A three (3) year lease is the preferred leasing term that should be considered for all leased agricultural land; however, a longer lease term may provide an incentive for renters to use enhanced conservation methods on rented land. Renters will apply required soil amendments and will plant perennial crops, such as hay, rather than annual crops, such as corn, soybean or winter wheat. Ultimately, the lease term will be established at the discretion of DPRC for each and every parcel.

(a) A five (5) year lease is available only to those renters agreeing to use one of the following rotations:

- Rotation 5-2 2 years of row crop, 1-year oats and 2 years hay
- Rotation 5-1 1 year of row crop, 1 year oats and 3 years of hay
- Rotation 5-0 5 years of hay

\*Row crop is defined as corn or soybeans.

(b) A three (3) year lease term will be available only to those individuals currently renting County-owned parklands and agreeing to use one of the following rotations:

- Rotation 3-3 3 years of a row crop or small grain
- Rotation 3-2 2 years of a row crop or small grain, 1 year of hay
- Rotation 3-1 1 year of a row crop or small grain, 2 years of hay
- Rotation 3-0 3 years of hay

\*Small grain is defined as oats, winter wheat or rye.

(c) A one (1) year lease using an approved soil retention material or cover crop will be available only to those current renters that lease County-owned parklands for the cultivation of vegetable crops or for sites with pending development in less than three (3) years. Current renters will have the option to discontinue the cultivation of vegetables and select one of the three (3) year lease terms or five (5) year lease terms listed above. A one (1) year lease will be the only option for new renters.

**2. Access:**

County-owned agricultural fields that are land-locked or accessible only by traversing private property will continue to be available to the adjacent property owner or a renter having an acceptable easement to access the County-owned park parcel. The renter of these land-locked parcels must select either a three (3) or five (5) year lease term. If the renter no longer desires to rent the land-locked park parcel, the parcel will be considered retired and no longer leased for agricultural use. DPRC reserves the right to retire, manage or bundle agricultural parcels to resolve access barriers created by multiple leases.

**3. Historic Use Agreements:**

Historic or existing leases, terms and/or rental rates based on the original terms of a property sale will be honored for continued rental under the original conditions only with proof of written documents supporting them.

**4. Conservation Plans:**

All renters shall farm County-owned parklands under the guidelines of a DPRC approved resource conservation plan. This plan specifies the following:

- Crop rotation
- Nutrient and pest management
- Tillage methods
- Specific best management practices, which includes soil sampling every 3 years or less.

The only fall tillage allowed on any parcel will be zone-till/strip till. However, in the case of poorly drained soils, the Natural Areas Coordinator has the discretion to allow mulch tillage. Mulch tillage, zone/strip tillage, or no-till will be required on all parcels that are used exclusively for the cultivation of annual row crops unless otherwise specified in the parcel's Conservation Plan. Mulch tillage means leaving greater than 30%, zone/strip tillage greater than 70%, and no-till 85-100% of the soil surface covered with crop residue at the time of planting. Conservation plans will be developed to meet the tolerable soil loss level, achieve water quality goals and meet resource management needs. Conservation plans will be developed in consultation with the United States Department of Agriculture (USDA) - Natural Resources Conservation Service (NRCS) and must be approved the DPRC Land Manager.

**5. Crop and Nutrient Management Records:**

All renters must maintain a log listing the following information about fertilizer and pesticides used on County-owned parklands:

- Date of fertilizer and lime application
- Amount, rate, and mixture of fertilizer applied
- Date of pesticide/herbicide treatment
- Type, rate, and amount of pesticide/herbicide applied
- Crop planted during the current year
- Soil tests results

**These records are to be submitted by December 31<sup>st</sup> of the cropping year to the DPRC, care of the Natural Areas Coordinator.**

**6. Stream bank Filter Strip:**

No annual crops will be planted within seventy-five (75) feet of any river or stream. Perennial crops, such as hay and marsh hay may be harvested after the nesting season ends (July 31), if said acreage is within the renter's DPRC contract. No annual or vegetable crops will be planted within thirty (30) feet of any field ditch.

**7. Hydric soils – Soil Drainage Alterations:**

All wetlands and farmed wetlands will not be filled or drained. DPRC will consult with NRCS on any wetland use, changes, or alterations.

**8. Waste Disposal:**

County-owned lands will not be used to store on site or dispose of any empty fertilizer or pesticide containers or any unused fertilizer, pesticides or other waste of any kind, with the exception of animal waste to supplement nutrient requirements. However, if a renter is applying livestock waste they must comply with a nutrient management plan developed for that parcel by NRCS and

approved by DPRC. Application of municipal waste requires the prior written permission of DPRC and will be determined on a case-by-case basis.

**9. Cost of Best Management Practices:**

DPRC will consider on a case-by-case basis an equitable method to share the cost of land improvements needed to prevent erosion and control sediment. DPRC will aggressively seek out federal and state grants to help fund those projects that result in improved land and water quality. In order for DPRC to assist in the funding of a project there must be a demonstrated improvement in water quality, recreational use, biodiversity, or other feature to advance the mission of the County's Park and Open Space Plan.

**10. Tree Harvesting:**

Removal of any trees or other vegetation on County-owned land is prohibited, unless it is conducted by DPRC's staff.

**11. Surface and Subsurface Drainage Maintenance:**

The renter shall maintain all subsurface tile drainage systems and outlets and surface swales, drainage ditches, crossings of drainage ditches, and grading along the banks of streams and rivers. Any repairs or installation of these systems are subject to Wisconsin Department of Natural Resources (WDNR) regulations and cannot be undertaken without the prior written consent of DPRC.

**12. Utility Work by Milwaukee County or Others on Rented Land:**

Occasionally it may be necessary for utility construction or other DPRC authorized construction on rented agricultural land. The impact of these activities on the use of the rental parcel will be treated on a case-by-case basis. The renter will be notified promptly of any of these types of activities so that the impact can be defined and the appropriate compensation can be specified. The County will require the sponsor of any non-County activity to compensate the renter for any loss caused by the activity. The County will require the sponsor of any activity to mark the proposed area of disturbance. This is to evaluate any changes that may occur from initial agreements.

**12. Rent adjustments for Crop Failure Rent:**

The DPRC will not provide rental rate adjustments for crop failures due to extreme weather conditions. If renters wish to receive subsidies or payments to offset crop losses they should work with the USDA, Farm Service Agency & Natural Resources Conservation Service and University of Wisconsin Extension Service to identify any available programs or funding sources.

**13. Rental Fees and Payment Schedule:**

Rental fees will be reviewed and, if necessary, adjusted annually.

(a) The following rental fees are recommended for agricultural leases on County-owned parcels greater than 15 acres beginning in 2009:

	<u>County Resident</u>	<u>Non-County</u>
5-year lease with hay in rotation Rotation 5-2, 5-1 or 5-0	\$128.00/acre/year	\$133.00/acre/year
3-year lease Rotation 3-3, 3-2, 3-1 or 3-0	\$128.00/acre/year	\$133.00/acre/year

1-year lease for sites with pending development	\$128.00/acre/year	\$133.00/acre/year
1-year lease for small agricultural plots	\$120/acre/year	\$125/acre/year

(b) The following rental fees are recommended for agricultural leases on County-owned parcels that are 5-15 acres in size beginning in 2010:

	<u>County Resident</u>	<u>Non-County</u>
5-year lease with hay in rotation Rotation 5-2, 5-1 or 5-0	\$118.00/acre/year	\$123.00/acre/year
3- year lease Rotation 3-3, 3-2, 3-1 or 3-0	\$118.00/acre/year	\$123.00/acre/year
1-year lease for sites with pending development	\$118.00/acre/year	\$123.00/acre/year
1-year lease for small agricultural plots	\$120/acre/year	\$125/acre/year

(c) The following rental fees are recommended for agricultural leases on Milwaukee County owned parcels less than 5 acres beginning in 2009:

	<u>County Resident</u>	<u>Non-County</u>
5-year lease with hay in rotation Rotation 5-2, 5-1 or 5-0	\$108.00/acre/year	\$113.00/acre/year
3-year lease Rotation 3-3, 3-2, 3-1 or 3-0	\$108.00/acre/year	\$113.00/acre/year
1-year lease for sites with pending development	\$108.00/acre/year	\$113.00/acre/year
3-year lease- marsh hay regardless of field size	\$35.00/acre/year	\$40.00/acre/year
1-year lease for small agricultural plots	\$120/acre/year	\$125/acre/year

(d) Rental fees must be paid according to the following schedule:

- i. April 1 One half of rental fee due.
- ii. November 30 Balance of annual rental fee due.

**14. Renter Selection Process:**

DPRC will maintain a waiting list of those persons that have provided written notification that they wish to rent Milwaukee County-owned parcels. When DPRC decides a parcel should be made available for agricultural lease, prospective lessees will be evaluated and ranked by DPRC staff and a tenant selected. DPRC will consider the qualifications and previous performance of potential tenants and can give additional credit to prospective tenants based upon the following criteria:

- (a) The individual is currently leasing the parcel.
- (b) The individual is a Milwaukee County resident.
- (c) The proximity to the home farm or other leased lands is 1-mile or less.
- (d) The individual has access to the parcel if it is land-locked.
- (e) The individual is a current renter with a good rental history.

- (f) The individual is a current renter that has lost a rented parcel due to park needs.
- (g) The parcel is being rented for small-scale vegetable plots.

If DPRC cannot select a suitable tenant, the parcel(s) will be retired, established in conservation cover, and no longer leased for agricultural production.

**15. Lease Contract:**

The lease contract will include the following terms:

- (a) A description of the location of the County-owned parcel(s) to be rented.
- (b) The length of the lease and a description of the rotation selected by the renter.
- (c) Specific references to a conservation plan that will be developed and made part of the rental agreement.
- (d) A termination policy for specific situations, see Section R below.
- (e) A prohibition of sub-leasing Milwaukee County agricultural parklands. This does not apply to small-scale urban garden plots that fall under DPRC's Special Land Use category.
- (f) Condition that the rented parcel(s) must be in at the termination of the lease.
- (g) Conditions for renewal of the lease.
- (h) A site access route approved by DPRC staff.

**16. Milwaukee County Parks Agricultural Land Lease Revenues (as amended in 2004):**

The first 70% of revenues generated through the Milwaukee County Agricultural Lease Program and CRP program will be used to fund DPRC's natural areas management program and the administration of both the agricultural lease program and natural areas program with the remaining 30% of revenues to be dedicated to the acquisition of parklands for future park uses.

**17. Termination Policy:**

DPRC reserves the right to terminate any agricultural contract and further restrict the future use of any County-owned parcel as to that renter if any of the following circumstances occur:

- (a) If the party leasing a parcel from DPRC is found to be sub-leasing the same parcel to another entity. This does not apply to small-scale urban agriculture plots that fall under DPRC's Special Land Use category. Certain Contract Services can be utilized by tenants and provided by other entities if previously approved by the DPRC.
- (b) In the case of non-payment of rent due by the dates specified in the contract.
- (c) In the case of non-compliance with any of the terms of the contract.
- (d) In the case of the property being required for another DPRC use.
- (e) In the case of a lessee being found to be farming DPRC parkland that is currently not part of the County's agricultural leasing program. In this instance DPRC reserves the right to terminate all of the lessee's agricultural contracts.
  - (f) If the party leasing a parcel from DPRC is found to be utilizing, or allowing others to utilize the land for any purpose other than the approved agricultural practices, including but not limited to hunting, ATV operation, snowmobiling, material or equipment storage, dumping, firewood collection or any other activity prohibited by County or local ordinances.
- (g) In the case of a lessee violating any Federal, State or Local laws or regulations or County ordinances on, or related to, land managed by the DPRC. Tenants shall comply with all applicable USDA (NRCS, FSA) and Wisconsin Department of Natural Resources policies and regulations related to their operations and use of County property.