

## Drafting Hunting Leases: Key Considerations for Landlords

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As the fall hunting season approaches, Florida landowners may contemplate leasing their land to an individual or group for hunting purposes. For many owners, drafting such a specialized lease may be daunting, as they have to consider such issues as the number of animals to be harvested, limitations on access, guest and youth considerations, among other things.

Some owners may never have considered leasing their property to hunters, and others may have specific goals in drafting their hunting lease, such as limiting their personal exposure while promoting sustainable wildlife management practices. In either case, owners should consider the following issues:

- **Price**

How will the rent for the lease be calculated? Many factors contribute to the calculation of a fair amount, such as the quality, number and species of game located on the property, the size of the property, the duration of the hunting lease, and housing availability. Moreover, landowners should consider whether the price should be based on a per acre basis, a per animal basis, or some other measure.

In calculating the rent, landowners may even consider requiring non-monetary compensation from the lessee in exchange for the right to hunt. For example, the lease may require that the lessee must oversee game management operations on the property, perform maintenance activities or provide other beneficial services or goods to the landowner.

- **Permitted Hunters**

A hunting lease should specify who is permitted to hunt on the property, whether guests are allowed, and how many people are permitted to hunt (whether during specific seasons, or otherwise). If guests will be permitted to hunt on the property, will there be a limit on the number of days the guests they can do so? Owners should consider whether rules

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for youth hunters, and specifically youth season, may differ from rules that apply to adult hunters.

- **Prohibited Uses**

Owners should determine whether specific uses should be prohibited on the property. In negotiating the hunting lease, owners should inquire of a prospective lessee the types of activities that he or she intends to conduct on the property. For example, should members be permitted to camp or place an RV on the property? Do the lease rights include the right to take all legal game, only certain legal game, and are certain species excluded?

- **Exclusivity and Transferability of Rights**

A hunting lease should specify whether the rights granted to the lessee may be assigned or subleased to a third party. Further, it should specify whether or not the hunting rights are exclusive in nature. For example, if the owner wishes to continue to allow his family and friends to hunt on the property, then the lease should specifically allow for the continuation of that activity.

- **Lessee Insurance**

Owners should determine whether they will require the lessee to obtain a liability insurance policy in connection with their lease. If such a policy is required, what kind of coverage should be mandated, and will there be any additional insured(s) named on the policy?

Owners should consider the nature of activities occurring on the property and require a lessee to obtain a similarly tailored policy to mitigate the specific risks involved in those activities. For example, a hunt club whose clientele consists of hunter members and hunter guests who will not use firearms or ATVs may require only industry standard general liability coverage, member-to-member coverage, and guest coverage. However, if the same hunt club were to permit its clientele to use firearms and ATVs, the landowner should consider requiring additional coverage to mitigate those additional risks.

- **Indemnification and Release**

Incorporating an indemnification and release into your next hunting lease may limit an owner's liability with respect to potential losses or damage caused by the lessee on the property. Often drafted together, an indemnification may obligate the lessee to compensate the owner for losses incurred as a result of its hunting activities on the property, and a release would operate to waive lessee's right to claim loss or damage. However, the scope of an indemnification and release is not without limits – it would not typically extend to cases of gross negligence by the owner.

- **Permitted Methods of Take**

Owners should consider whether they will limit the type of weapons that may be utilized for hunting on the property. Will the lease permit hunter members to utilize rifles, muzzleloaders and archery equipment? Are members permitted to utilize traps, hunting dogs, night vision and/or thermal optics (when legal)?

- **Limitations on Game**

Owners should consider whether they will limit the quality or quantity of game that may be taken. For example, a hunting lease may limit the number of animals (both male and female) taken from the property during a given hunting season, require each animal to meet specific age, score and/or weight requirements, or impose a mandatory quota with regard to specific animals (e.g., feral pigs). Landlords should always consider how their game limits will affect the overall wildlife management plan for their property.

Lastly, landowners and hunters alike may request our assistance in drafting, negotiating, or reviewing their next hunting lease. With comprehensive experience in drafting complex hunting leases, we are ready to assist you in navigating the unique landscape of hunting leases.

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