



URBAN AGRICULTURE

A SIXTEEN CITY SURVEY OF URBAN AGRICULTURE PRACTICES ACROSS THE COUNTRY

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Established in 1998 with a Turner Foundation grant, the Turner Environmental Law Clinic at Emory Law School provides pro bono representation to public interest organizations and citizens seeking to protect and restore the natural environment. The Clinic's unique mission combines these environmental protection efforts with legal education. With supervision from clinical professors, students enrolled in the Turner Environmental Law Clinic receive an intense, hands-on introduction to sophisticated environmental law and regulatory practice, while gaining exposure to various environmental organizations. The students give a legal voice to citizens and groups with environmental concerns that would otherwise go unheard.

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Georgia Organics is a member supported, non-profit organization integrating healthy, sustainable and locally grown food into the lives of all Georgians. We believe food should be community-based, not commodity-based.

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EXECUTIVE SUMMARY

This report surveys the zoning ordinances of 16 cities and explores how these cities have incorporated urban agriculture into their land use plans. Each city was chosen either because of its long-standing urban agriculture practices or because of its recent efforts to revise its zoning ordinances. All information contained within this report is current as of June 1, 2011.

The cities' unique approaches to urban agriculture are addressed in three parts. First, we present the regional, political, and historical context of urban agriculture in each city. To provide a common point of comparison, we identify each city's rank in the 2008 SustainLane city sustainability rankings where possible. SustainLane evaluated the 50 most populous cities in the United States and ranked each city to create the "nation's most complete report card on sustainability." Second, we explain the current status of the city's urban agriculture zoning ordinances. Finally, we provide a detailed report of each city's urban agriculture practices. Based upon this examination, we conclude that there is no exact formula for the successful implementation of urban agriculture initiatives. Nevertheless, we hope this report will help inform and guide Georgia Organics in fostering urban agriculture practices in Atlanta and throughout Georgia.

To understand this report and its findings, a brief explanation of urban agriculture is required. Urban agriculture encompasses a wide range of activities; the term means something different to each of the 16 cities surveyed. Most broadly, urban agriculture refers to growing and raising food crops and animals in an urban setting for the purpose of feeding local populations. Cities choose to narrow and focus this definition in various ways, often categorizing urban agriculture as one or more of the following: community gardens, commercial gardens, community supported agriculture, farmers' markets, personal gardens, and urban farms.

Regardless of the definition, most of the cities surveyed incorporate urban agriculture provisions into their zoning ordinances. Many do so by including provisions regarding community gardens, sales of produce, and keeping animals. Most commonly, cities will address community gardens in their zoning ordinances. While these gardens are formed and regulated differently in each city, administration of garden operations typically requires the city to partner with local community groups.

Many cities also contemplate sales in their urban agriculture zoning ordinances. Usually, the sale of produce grown in urban agriculture settings is permitted. Sales, however, are often subject to various restrictions, depending on each city's individual needs, desire for urban agriculture, and feedback from citizens and interested groups.

Some cities label gardens from which produce is sold as “commercial gardens,” and set forth specific regulations for that particular use.

Most zoning ordinances also address keeping animals. Keeping chickens is allowed in many cities, and some cities allow for livestock and bees to be kept as well. The regulations regarding the keeping of animals are typically stricter than those for gardens, and setbacks for chicken coops or animal housing and restrictions on the number of animals that may be kept are nearly always established.

Cities often address a variety of other urban agriculture issues, including the length of time the property may be used as a garden, ownership of the land, lot size and setbacks, parking, signage, liability, aesthetics and upkeep, access to water, impact to property values, and runoff and pesticides. While each city’s approach is different, together they form a template from which Atlanta can begin to draft its urban agriculture initiatives.

NOTE: Since June 2011, some of the cities surveyed have changed their urban agriculture practices from those described in this report. For example, Chicago passed amendments to its zoning code in September 2011. The new amendments reflect those discussed in this paper, with one notable exception. Chicago expanded the permitted size of community gardens to 25,000 square feet to accommodate commercial farms within city limits. Chicago is not the only city making changes. Atlanta, Boston, Minneapolis, and Portland are also revising their zoning codes during fall 2011 to incorporate urban agriculture. Additionally, Atlanta has passed a Farmers’ Market amendment to its zoning code and is hosting an urban farm design competition. The Atlanta section has been updated to reflect these efforts and is current as of October 2011.

CITIES

ATLANTA, GEORGIA

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Atlanta, Georgia has a land area of 132 square miles and is home to 550,000 people.¹ With more than 5.5 million residents, metropolitan Atlanta is the third largest metropolitan area in the Southeast and ninth largest in the country.² The 2008 SustainLane city sustainability rankings place Atlanta 11th in “Local Food & Agriculture” and 19th overall.³

To further its sustainability efforts, the City of Atlanta created the Office of Sustainability in 2007. In turn, the Office of Sustainability formed Sustainable Atlanta, a non-profit organization tasked with creating policies and programs to improve the city’s sustainability.⁴ Sustainable Atlanta published the first Sustainability Report for Atlanta in March 2009. Following publication of the Report, the Office of Sustainability established a long-range sustainability plan entitled “The Power to Change.” In addition to establishing the city’s sustainability goals, “The Power to Change” laid out a plan for promoting urban agriculture in Atlanta. The plan included launching a childhood obesity and local food initiative, passing new farmers’ market and community garden ordinances, committing to bringing local food within ten minutes of 75 percent of all residents by 2020, and committing to building community garden and urban agriculture plots in all city parks.⁵ During his first year in office, Mayor Kasim Reed set a goal of making Atlanta one of the ten most sustainable cities in the country, ensuring Atlanta’s continued dedication to sustainability and urban agriculture.⁶

CODE STATUS

Atlanta’s zoning ordinances do not use the term “urban agriculture.” While the zoning code permits community gardens in several residential districts and greenhouses as an accessory use in most districts, it is silent with regard to growing fruits and vegetables outside a greenhouse. Poultry and livestock are generally permitted within city limits, provided lot size and placement requirements are met.

Most residential districts in the city prohibit the sale of fruits and vegetables onsite. Several mixed-use and commercial districts (that also permit residential use) allow for commercial greenhouses and/or private vending of fruits and vegetables. Where sale of fruits and vegetables is permitted, a person must obtain a vending permit prior to selling.⁷ A health department food service permit, however, is not required – provided only whole fruits, vegetables, or nuts in shells are sold.⁸

Additionally, the city has recently passed amendments to its zoning code to allow the sale of locally grown and raised food and food products at farmers’ markets on private

property. Atlanta, with the help of the Turner Environmental Law Clinic at Emory University School of Law, is now drafting amendments to its zoning code for the purpose of clarifying criteria for community gardens and permitting more urban agriculture within city limits.

URBAN AGRICULTURE IN ATLANTA

The City of Atlanta is actively promoting urban agriculture by amending its zoning code and promoting urban agriculture projects through its Office of Sustainability. In September 2011, Atlanta passed a farmers' market amendment to the zoning code. The amendment defines "farmers' market" as "a market where vending activity is conducted outdoors in an open air environment and accessible to the general public."⁹ To operate, a farmers' market must obtain a special administrative permit, which is valid for one year.¹⁰ Permitted farmers' markets are allowed in almost all districts, but are limited in residential districts to "parcels which meet the minimum lot size requirements and are used as churches, synagogues, temples, mosques and other religious worship facilities or schools."¹¹ With this amendment to the zoning code, the City hopes to "increase access to healthy, local, and affordable foods; encourage community building; and support local agriculture and economic development."¹²

The Mayor's Office of Sustainability is promoting urban agriculture by hosting the Trinity Avenue Farm Design Competition.¹³ Applicants are invited to design an urban farm that is aesthetically pleasing and features innovative techniques, technological demonstrations, local produce, and educational components.¹⁴ The winning design will be constructed across the street from Atlanta City Hall in spring 2012 and will serve as an "aspirational model for urban agriculture within Atlanta communities—showcasing how fresh food can be grown locally and sustainably."¹⁵

In addition to the work undertaken by the Office of Sustainability, Atlanta has also benefited from projects and legislative efforts that promote urban agriculture initiatives at the state level. In 2003, the University of Georgia's Center for Urban Agriculture began a state-wide, issue-based project to educate and research urban agriculture issues and provide support to urban agriculture professional groups.¹⁶ Legislative efforts include two urban agriculture bills currently before the Georgia legislature. The first, entitled the "Georgia Food Freedom Act" will be addressed by the House Agriculture Committee when the legislative session resumes in January 2012.¹⁷ The bill will "modify the current prohibition on the retail sale of unprocessed agricultural products to allow direct transaction between farmers and consumers...[and] legalize the sale of raw milk."¹⁸ The second, entitled the "Right to Grow Act," will be addressed by the House Judiciary Committee.¹⁹ This bill will prohibit any county, municipality, consolidated government, or local authority from requiring "any permit for the growing or raising of food crops or

chickens, rabbits, or milk goats in home gardens, coops, or pens on private residential property.”²⁰

Aside from municipal and state urban agriculture initiatives, Atlanta has numerous community groups that focus on promoting urban agriculture within the city. Indeed, community groups have generated much of the progress in Atlanta’s urban agriculture movement, including the creation of 170 community gardens.²¹ The city has been closely involved with several of these groups, such as the Truly Living Well Center for Natural Urban Agriculture, Park Pride, the Next Steps Youth Entrepreneurial Program, and Georgia Organics.

The Truly Living Well Center for Natural Urban Agriculture is a community supported agriculture group that completed a four-acre community garden in the Old Fourth Ward Neighborhood in the spring of 2011.²² The revenue producing garden has 58 raised beds for growing vegetables, more than 150 newly planted trees and plants, a greenhouse, and aquaponics.²³ The Atlanta Development Authority assisted Truly Living Well with site selection, and District 2 city councilmember Kwanza Hall facilitated agreements between Truly Living Well and organizations like the Atlanta Falcons Youth Foundation and the Environmental Protection Agency (“EPA”) to provide financial support for the garden.²⁴

Another community group, Park Pride, coordinates the Adopt a Garden Program, which contracts with citizens to maintain small community gardens in City of Atlanta parks. Since its inception in 2007, the Adopt a Garden Program has helped create 18 community gardens throughout the city.²⁵

Next Steps Youth Entrepreneurial Program, another grass-roots organization, is bringing urban agriculture to Metro Atlanta youth. Next Steps’ Herb & Farm Urban Gardening Program works to “foster a grassroots activism among students and their families as...[it] creates a local food market, regionally self-sufficient food systems and sustainable practices.”²⁶ Together with the Mayor’s Youth Program, Next Steps gave ten students the opportunity to work on the Metro Atlanta Urban Farm in College Park during the summer of 2010.²⁷ While working on the Farm, students learned about community gardening and developed leadership skills. Next Steps hosted its second annual Herb & Farm Summer Training Program this year.²⁸

Numerous other community and group-sponsored urban agriculture projects have been independently established. These projects generally focus on either community gardens or policy advocacy. The Oakhurst Community Garden was created initially as a grass-roots environmental education center in 1997. The Community Garden later added garden plots at the request of neighborhood residents. The garden now also serves as a nature center and meeting space, and works with the Riverview Farms Community

Supported Agriculture (“CSA”) program to bring fresh, local foods to the community.²⁹ Similarly, the Atlanta Community Gardens Project assists community garden groups with site selection and garden planning, provides volunteers, and supplies gardening information and materials. One of the Project’s primary goals is to distribute produce to farmers’ markets tailored to recipients of the Woman, Infants and Children Nutritional Program.³⁰

These community gardens are complemented by policy advocacy projects such as the Atlanta Local Food Initiative, a network of people, groups, and agencies that seek to promote urban agriculture in the city. To raise public awareness for urban agriculture, the Initiative has spearheaded a coalition of more than 30 agencies and organizations committed to local food production and creating a “Plan for Atlanta’s Sustainable Food Future.”³¹

Combining both community gardens and policy advocacy efforts, the Our Community Farm Project is an urban farm led by Burundi refugees. This group works with Refugee Family Services to engage refugee families in urban agriculture projects and has also created the Global Growers Network of Georgia, a network that links refugees with urban agriculture projects in Atlanta and works with DeKalb County and stakeholder groups like the Atlanta Local Food Initiative to promote urban agriculture in Atlanta.³² The continuing efforts of both citizens and legislators at the local, municipal, and state level demonstrate the city’s abiding dedication to sustainability and urban agriculture.

BALTIMORE, MARYLAND

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Baltimore, Maryland is home to over 620,000 residents, and more than 2.7 million people live in the Baltimore Metropolitan Area.³³ The city is situated in the mid-Atlantic region, on the Chesapeake Bay, and covers 80 square miles. In the 2008 SustainLane city sustainability rankings, Baltimore ranked 10th overall and 17th in “Local Food & Agriculture.”³⁴ Such a ranking is unsurprising, as the state of Maryland is conservation minded. In fact, the Maryland Department of Natural Resources holds over 1,000 conservation easements statewide in the Maryland Environmental Trust, one of the oldest and most successful land trusts in the country.³⁵ And, since 1997, Maryland has increased its conservation farmland by nearly 60,000 acres.³⁶

In addition to conserving land, Maryland has adopted initiatives to promote urban agriculture statewide. The Maryland State Assembly passed a bill in 2010, allowing counties and the independent City of Baltimore to enact an “Urban Agriculture Tax Credit” for real property used for urban agriculture.³⁷ If local governments do not see this tax credit as successful, they may end it after three years; if effective, it may be extended for an additional five.³⁸

Even before the Urban Agriculture Tax Credit, Baltimore was a leader of the State’s urban agriculture initiatives, and its citizens continue to appreciate the city’s policies on sustainability. In 2008, the city created an Office of Sustainability.³⁹ One of the Office’s main goals is to enhance the local food system infrastructure in Baltimore by: increasing land cultivated for agricultural purposes; increasing demand for local food used in schools and other institutions; developing an urban agriculture plan; and implementing the Baltimore Food Policy Task Force’s recommendations for food policy.⁴⁰ The Task Force’s recommendations include: promoting farmers’ markets and CSAs, supporting community gardens and urban agriculture, continued research of food deserts, expanding home grocery delivery systems, and improving the food environment around schools and recreation centers.⁴¹

Many of the Office of Sustainability’s urban agriculture initiatives mirror work that is being conducted by community groups and the University of Maryland.⁴² The University of Maryland’s Urban Agriculture Program began in the late 1970s, and it has helped Baltimoreans repurpose vacant city-owned lots by promoting home gardening, teaching proper gardening techniques, and training master gardeners.⁴³ In 2008, the Urban Agriculture Program began a partnership with the Parks & People Foundation to support community greening projects in Baltimore, which became known as the Community Greening Resource Network (“CGRN,” pronounced “sea-green”).⁴⁴ CGRN provides educational workshops, technical support, garden tool banks, and other resources for

Baltimoreans interested in urban gardening. Additionally, the Parks & People Foundation helps promote community gardens in Baltimore by giving out \$1,000 grants to community groups that need to buy tools, plants, or other garden-related items.⁴⁵ Because of the active steps that Parks & People and the Urban Agriculture Program have taken, Baltimore has over 20 new urban gardens, dozens of new master gardeners, and has provided over 150 students with gardening education.⁴⁶

Sparked by community support of urban agriculture, Baltimore began modifying some of its policies to improve the legal status of urban gardens. For example, to help increase agricultural infrastructure, the city established a policy to sell community managed open space for \$1 to groups who have a partner organization, like Parks & People.⁴⁷ Baltimore Green Space is a common sponsor of community gardens in the city, and it helps communities preserve gardens through its land trust.⁴⁸ Additionally, the city began working on a new zoning ordinance that would add community gardens as an approved use in many neighborhoods.⁴⁹

CODE STATUS

Currently, Baltimore's zoning code only provides for "nurseries" and "truck gardens," both of which are permitted in residential districts so long as no retail sales are made on the premises and no offensive odor or dust is created.⁵⁰ The code does allow agriculturally related retail such as farmers' markets, garden centers, and garden supply stores in commercial districts. Baltimore's code also has overlay districts that provide for agriculture, including the Critical Agricultural Area near the Chesapeake Bay, which allows for farms, limited acreage wholesale flower farms, produce stands, and farmers' roadside stands. Farmers' markets, however, need a special exemption from the zoning board.

In April 2010, Baltimore's City Planning Department proposed their new version of the zoning code to simplify the city's 40 year-old existing code, promote mixed use development, and protect open space and community gardens.⁵¹ The city closed the public comment period on March 15, but the proposal has not been voted on as of the date of this report. The proposed code will provide a definition of "community garden" and specify what types of uses are permitted in community gardens.⁵²

URBAN AGRICULTURE IN BALTIMORE

Although this new zoning code has yet to be approved, community gardens are thriving in Baltimore, thanks in part to the city's willingness to sell vacant lots to community groups. Many of Baltimore's 30,000 vacant lots and abandoned properties are being steadily turned into urban farms and community gardens, adding to the more than 100 community gardens already in place.⁵³ Baltimore's new zoning code will accelerate the city's transition to local food by encouraging and permitting urban farms on city land.

The proposed zoning code will define permanent “community gardens” to allow the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity.⁵⁴ It will require a soil test to measure nutrients, heavy metals, and any other harmful contaminants before an in-ground community garden may be established; soil tests will not be required for gardens in raised soil beds. In addition, farmstands will be permitted in community gardens, but sales will be limited to items grown on site and the structure must be removed from the premises when the growing season ends.

The proposed code will not allow for the keeping of animals or livestock. The code will also prohibit permanent structures, but allow accessory structures such as sheds, gazebos, and pergolas. Additionally, the code will allow for greenhouses, hoophouses, cold-frames, and similar structures to extend the growing season. While the proposed code will not address ownership, many of the gardens will likely be part of Baltimore Green Space’s land trust. Baltimore Green Space takes on liability for the property, but provides that the community organization maintain responsibility for maintenance and upkeep.⁵⁵

The proposed code does not address issues such as garden size, lot setbacks, traffic, permits, parking, or signage requirements. It is also unclear what type of enforcement will be used, if there are any restrictions on pesticides and runoff from the farm, and how access to water will be obtained.

BOSTON, MASSACHUSETTS

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Boston, Massachusetts is the largest city in New England, covering almost 50 square miles of land. The city itself is home to nearly 650,000 people, and over 4.5 million residents live in the greater metropolitan area. Boston was ranked 3rd in “Local Food & Agriculture” and 6th overall in SustainLane’s 2008 city sustainability rankings.⁵⁶

Boston’s recent sustainability initiatives are shaped by a 2002 Executive Order signed by Republican Governor Mitt Romney that established the Massachusetts State Sustainability Program. The Sustainability Program works to ensure the government promotes sustainable practices to reduce the state’s environmental impact and save taxpayer dollars.⁵⁷ The Program spurred a 2004 initiative to improve energy efficiency, recycling, and other environmentally sound practices.⁵⁸ In conjunction with the initiative, the Boston metropolitan region was awarded a federal EPA grant in 2005 to support sustainable regional planning by considering the social, environmental, and economic elements of sustainability.⁵⁹

Many of Boston’s sustainability projects mirrored work that was already being conducted by community groups. Urban agriculture and the restoration of green space in the metropolitan area was a priority of the Boston Natural Areas Network (“BNAN”) since the group was founded in 1977.⁶⁰ BNAN is a citizen advocacy group that works to preserve, expand, and improve urban open space by acquiring properties, organizing communities, and providing education to help develop and manage urban lands. BNAN permanently protects 44 community gardens through ownership, making it one of Boston’s largest land trusts.

Additional support for urban agriculture in the area came from The Food Project. The Food Project began in 1992 as a group to promote community involvement in urban agriculture, and now farms four acres in seven urban communities, and 36 suburban acres.⁶¹ They sell their produce through five CSAs and four farmers’ markets in low-income neighborhoods, bringing fresh produce back to areas that were once food deserts.

Policy support for urban agriculture in Boston came from the Tellus Institute of Boston. Tellus was established in 1976 as an interdisciplinary, not-for-profit research and policy organization focusing on sustainable communities, energy, and climate change.⁶² It works with foundations, government agencies, and community organizations to coordinate environmentally sustainable programs. In 2005, Tellus consolidated its program to focus on sustainability at every level, from local to global.

The city worked in conjunction with the Tellus Institute, the Metropolitan Area Planning Council (“MAPC”), and the Massachusetts State Sustainability Program to create

MetroFuture, a regional stakeholder-based planning process. MetroFuture's goals include: making plans to influence policy-making, motivating citizens to support sustainable policies, and promoting the networking of existing planning efforts in the region.⁶³ MetroFuture worked with thousands of residents, community organizations, municipal officials, state agencies, businesses, and institutions to create a regional plan for a sustainable future, called the MetroFuture Regional Plan. MAPC formally adopted the MetroFuture Regional plan in 2008.⁶⁴ Part of the MetroFuture implementation strategy is to enable compact growth within Boston, which relies upon successful local land use planning. Accordingly, MetroFuture champions statutory reform through its Zoning Reform Campaign, specifically encouraging adoption of new definitions for "urban agriculture" in Boston.⁶⁵

CODE STATUS

Currently the Metropolitan Area Planning Council is working with state-level officials and organizations to advocate for sustainable growth focused statutory reforms relative to local zoning. MAPC has introduced two land use bills to the State legislature that would reform zoning, site plan review, impact fees, and the transfer of development rights.⁶⁶ This legislation promotes urban agriculture by relaxing permitting requirements, and provides that no limits shall be placed on agricultural product sales.⁶⁷ MAPC's effort has provided the Boston area with support to implement its own local zoning codes directed towards sustainability.

URBAN AGRICULTURE IN BOSTON

Boston's zoning code was recently amended in 2010 to include two sections focusing on sustainability, although it does not include a definition of "urban agriculture" or "gardening." The code merely references open space, and distinguishes between five types: green area, permeable, public, publicly beneficial, and usable. The *Sustainable Design and Development* section of the code, along with the *Cambridgeport Revitalization Development District* section, provide for publicly beneficial open space requirements in urban areas.⁶⁸ Publicly beneficial open space is defined as an area of at least 100,000 square feet that allows parks, plazas, lawns, landscaped areas, decorative plantings, and active and passive recreation. In the revitalization district, the publicly beneficial open space is required to be guaranteed by either a dedication of the land to the city, an easement of at least 75 years, a lease agreement of 75 years to the city, or a dedication by covenant of 75 years or longer.

Even without explicit protection by the zoning code, Boston has over 44 community gardens and 18 registered farmers' markets.⁶⁹ Community groups such as The Food Project and BNAN continue to support the local food movement. BNAN is steadily purchasing land for protection, improving access to gardening resources, and educating residents about gardening and farming through its Master Urban Gardening Program.⁷⁰ The Food Project

similarly empowers youth in the Boston area by teaching them how to cultivate organic food, and helps urban communities by selling its produce through Community Supported Agriculture and farmers' markets in areas that were previously food deserts. The success of these organizations proves that community support can influence policy, and that community groups can be central to shifting urban agriculture paradigms in a city.

CHICAGO, ILLINOIS

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Chicago, Illinois is the third most populous city in the U.S. and is home to over 3 million residents. The Chicago area ranks as the 27th most populous metropolitan area in the world, with an estimated 9.7 million people. Chicago was ranked 4th overall in the 2008 SustainLane city sustainability rankings.⁷¹

Illinois is second among states in agricultural exports; however, most Illinois farmland does not produce crops sold directly for human consumption and one in ten Illinois households is food insecure.⁷² In response to these issues, the Illinois legislature passed the Illinois Food, Farms, and Jobs Act of 2007, which created a Local and Organic Food and Farm Task Force.⁷³ The Task Force promulgated policy and funding recommendations for expanding and supporting a statewide local food system, and these recommendations were implemented by the 2009 Local Food, Farms, and Jobs Act. The 2009 Act created the “Local Food Council,” a non-profit corporation that facilitates growth of an Illinois-based local farm and food product economy.⁷⁴

Chicago has exemplified the statewide dedication to local agriculture goals. Through urban agriculture programs, the city has been able to address two difficult sustainability issues: increasing access to fresh local food and reducing summer cooling costs. More than 600,000 of Chicago’s residents live in “food deserts,” or areas with little access to fresh fruits, vegetables, and meat.⁷⁵ The city also suffers from an “urban heat island” effect, causing it to be 6-10F hotter than surrounding rural areas. To combat these problems, Chicago residents have constructed 600 green roofs, which help bring fresh produce to food deserts and decrease heat in urban areas. Recognizing that green roofs are excellent sites for urban garden development, Chicago has published a “Guide to Rooftop Gardening” to encourage continued development of rooftop gardens.⁷⁶

Many of the new food policies at the municipal and state level mirror work that was already being conducted by community groups in Chicago. Angelic Organics Learning Center, an organization founded in 1998 to promote access to fresh healthy food in urban neighborhoods, leases a 38-acre parcel of land from a group of CSA shareholders.⁷⁷ For over 15 years, Angelic Organics has farmed this land in exchange for providing fresh produce to the CSA. Angelic Organics also works with the Chicago Chicken Enthusiasts (“Chi-Chick-Ens”), an organization formed in 2008, in response to a proposed ban on backyard chickens.⁷⁸ Chi-Chick-Ens, which now has over 250 members, advocates for a balanced approach to addressing concerns about backyard chickens.

Chicago residents have formed policy organizations to support these and other community groups. One such organization, the Advocates for Urban Agriculture (“AUA”),

works with community members and city leaders⁷⁹ to promote city policies that increase access to healthy food in urban neighborhoods. Many other grassroots organizations, such as the Chicago Food Policy Advisory Council (“CFPAC”), also work with the city to enhance urban agriculture opportunities in Chicago.⁸⁰

In response to the growing community support of urban agriculture, Chicago worked with advocates from community groups like AUA and CFPAC to study the food system in Chicago. In 2004, the city sponsored a working group that produced the “Eat Local Live Healthy” plan to enhance public health and create food-related economic opportunities by increasing the availability of fresh, local food.⁸¹

In 2009, Chicago’s Department of Zoning and Planning worked with CFPAC to develop a Food Systems Report which provided an outline of food systems needed in Chicago.⁸² CFPAC also worked with the city’s Metropolitan Agency for Planning to adopt a regional plan called “GO TO 2040.” GO TO 2040 recommends that local governments surrounding the Chicago area simplify zoning codes in an effort to incentivize the conversion of vacant lots and rooftops to agricultural use.⁸³ In response to these comprehensive efforts, amendments to Chicago’s zoning code have been proposed and are awaiting hearing before the city council.

CODE STATUS

On December 8, 2010, Mayor Daley introduced legislation amending Chicago’s zoning code.⁸⁴ If passed by the Chicago City Council, this legislation would permit community gardens and urban farms in the city’s residential and commercial areas, respectively.⁸⁵ Community groups are generally enthusiastic about these legislative changes but remain concerned about the details. For example, community gardens would be allowed in all residential areas, but they would be limited to 18,750 square feet. This restriction would present problems for the many community groups who are already farming land over the size limit.⁸⁶ Community groups are especially troubled by the continued prohibition of off-site compost. The city is working to resolve these issues. In addition, it is preparing “Site Guidelines” to assist community members and groups with garden installations.⁸⁷

Even though agricultural sales was an integral part of the “Eat Local, Live Healthy” report, existing regulations would prohibit on-site sales at community gardens in residential areas, frustrating many community groups. A pre-existing city law prohibits retail activity in residential districts. Nevertheless, periodic community events with items for sale (such as bake sales, rummage sales, and educational events) are not considered “businesses” subject to license and zoning requirements. This exemption may provide residents an opportunity to circumvent the prohibition.⁸⁸

The City Council's Zoning Committee has reviewed the code, but has not yet passed it.

URBAN AGRICULTURE IN CHICAGO

Chicago residents have established hundreds of community gardens, 34 of which are part of the American Community Gardening Association, and around a dozen small farms where produce is sold to the public.⁸⁹ Chicago also has about 14,000 empty lots that could be farmed to create a local food source and jobs for community members.⁹⁰

The new code would define community gardens and commercial gardens as two distinct uses allowed in separate areas. "Community gardens" describe neighborhood-based developments that provide space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use. Community gardens would be allowed in virtually every part of the city except manufacturing districts.⁹¹ There is no size restriction for community gardens in parks or other public, open-space districts. Gardens in other districts, however, would be limited to 18,750 square feet without a variance from the Zoning Board, which requires demonstrated support from community members. The size limit on community gardens may embody a compromise between gardeners and residents concerned about property values.

"Commercial gardens" are separately defined as sites that allow for the propagation, processing, and storage of plant products for wholesale or retail sales. Indoor commercial gardens, such as greenhouses, generally would be allowed in manufacturing and planned manufacturing districts. Outdoor operations are specifically allowed in all commercial districts and in certain industrial, manufacturing, and planned manufacturing districts where local food is especially difficult to find.⁹²

The new amendments to Chicago's zoning code would also allow for urban farming and community gardens on sites owned and managed by public or civic entities, nonprofit organizations, or other community-based organizations. The operating organization would be responsible for maintenance and operations. However, the amendments do not address issues such as liability, permits, parking, or signage requirements, what type of enforcement will be used, if there are any restrictions on pesticides and runoff from the farm, and how access to water is obtained.

The zoning codes that are up for consideration in Chicago are a reflection of government, community members, and organizations working together to achieve a common goal. Chicago is actively working to achieve the missions defined in its "Eat Local, Live Healthy" plan by minimizing legal hurdles for urban gardens.

CLEVELAND, OHIO

BACKGROUND: REGIONAL, POLITICAL AND HISTORICAL CONTEXT

Cleveland, Ohio is home to nearly 450,000 residents, living in a land area of 78 square miles.⁹³ Having lost over 60,000 residents since the last census in 2000, Cleveland has been designated a “shrinking city.” In response to the decline of its population and industrial economy, Cleveland has been investing in urban agriculture to reinvigorate large tracts of land that were once factories and residential areas. Cleveland’s new land use policies—including its zoning code, “Chickens and Bees” legislation, and food initiatives—have earned it the number 2 spot in “Local Food & Agriculture” in the SustainLane city sustainability rankings.⁹⁴

Many of the city’s urban agriculture efforts have been assisted by community groups, such as the New Agrarian Center (the “NAC”). Formed in 2000 to focus on growing a local food system in Northeast Ohio, the NAC hosted the first regional Food Congress in 2003, bringing together 80 food system stakeholders in an attempt to develop a strategy for stimulating the potential \$7 billion local food market.⁹⁵ This strategy is embodied in the City Fresh initiative, which works to improve access to locally-grown foods in inner-city food deserts by operating neighborhood Fresh Stops that provide food and nutrition education.⁹⁶ City Fresh was awarded a Community Food Project grant from the U.S. Department of Agriculture in 2005 to assist in training new urban farmers, converting vacant lots into productive market gardens, and converting an abandoned grocery store into a community food distribution center.⁹⁷ City Fresh has generated over \$150,000 in income while providing fresh produce to more than 800 families living near or below the poverty line.⁹⁸

To complement the efforts of the NAC and other community groups, policy advocates have formed organizations such as the Cleveland-Cuyahoga County Food Policy Coalition (“CCC”).⁹⁹ CCC advocates for policy changes to improve the local food system, and it was an integral member of the Land Use and Planning Working Group that assisted the City Planning Commission in amending Cleveland’s zoning ordinances.¹⁰⁰

CODE STATUS

In 2007, the City of Cleveland created a new zoning category for urban gardens.¹⁰¹ The “Urban Garden District” zoning ordinance was established to foster urban garden development in an effort to meet the needs of local food production, provide garden-related job training, preserve green space and enhance the environment, and enrich the surrounding communities.¹⁰² The Urban Garden District ordinance allows for community gardens, where occasional on-site produce sales are permitted, and for market gardens that can sell produce on-site at any time.¹⁰³

URBAN AGRICULTURE IN CLEVELAND

Since its passage, the Urban Garden District ordinance has successfully fostered urban farm and community garden growth in Cleveland. More than 200 community gardens have sprouted in the city, and many of these community gardens have developed into for-profit market gardens.¹⁰⁴ Over 120 land bank lots have been converted to gardens, nurseries, pocket parks, and orchards.

The Urban Garden District ordinance defines “community garden” as an area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food ornamental crops, such as flowers, for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or farmed collectively by members of a group. Additionally, the garden may include common areas maintained and used by group members.¹⁰⁵ The Urban Garden District ordinance separately defines “market gardens” as areas of land managed and maintained by an individual or group to grow and harvest food crops to be sold for profit.¹⁰⁶

The Urban Garden District ordinance permits accessory uses, such as greenhouses, hoopouses, cold-frames, raised planting beds, compost bins, tool sheds, barns, restrooms with composting toilets, planting preparation houses, seasonal farm stands, chicken coops, and beehives. The zoning ordinance also permits identifying signs, which may include directions or details of the garden’s sponsors. The ordinance also allows for rain barrel systems, off street parking, and walkways.¹⁰⁷

The Urban Garden District ordinance restricts fences to six feet, and specifies construction materials that may be used. The ordinance does not address the issues of where market gardens may be located, liability, or permits required in Urban Garden Districts. The code is also unclear as to enforcement, restrictions on pesticides and runoff from the farm, and how access to water is obtained if not from rain barrels.

The addition of the Urban Garden District ordinance to Cleveland’s zoning code is but one part of a community-wide effort to promote local food production and healthier eating in the city. Cleveland continues to work with community groups and collaborate with funders to provide financial support to the Cuyahoga Community Land Trust, the Botanical Garden, and the Ohio State University extension, with the overarching goal of fostering economic opportunities for local-food entrepreneurs.

DENVER, COLORADO

BACKGROUND: REGIONAL, POLITICAL AND HISTORICAL CONTEXT

Denver, Colorado is the second largest city in the Mountain West, covering almost 155 square miles of land. The city proper is home to 610,345 people, and over 3 million residents live in the Denver-Boulder metropolitan area. Denver ranked 12th in “Local Food & Agriculture” and 11th overall in the 2008 SustainLane city sustainability rankings.¹⁰⁸

Colorado has a mix of political attitudes, with mostly conservative and independent voters in the rest of the state surrounding the more progressive Denver. This heterogeneous political climate, however, has not hampered Colorado’s sustainability efforts. To encourage sustainability, the state launched the 2010 “Sustainable Main Streets Initiative,” which, among other things, allowed four pilot communities to improve their regional food systems. Colorado earned a \$1.28 million federal Department of Housing and Urban Development and Department of Transportation grant to support this Initiative.¹⁰⁹ One of the pilot communities involved in the Initiative was Five Points, located in downtown Denver.

The city of Denver began its focus on sustainability in 2005, when Mayor Hickenlooper, now Governor, started Denver’s Sustainable Development Initiative. The Initiative, assisted by business and community partners, works to integrate environmental impact considerations into the city’s programs and policies.¹¹⁰ To pursue this goal, the city created “Greenprint Denver,” an action plan to promote city sustainability efforts.¹¹¹ Among other recommendations, the Plan advised updating Denver’s zoning code to include the sustainable zoning categories suggested by the EPA.¹¹² In 2010, the zoning code was updated, and it now includes definitions of “garden” and “urban gardening” that will support the former Mayor’s goal of converting public landscapes to “waterwise” gardens.

To meet criteria for a U.S. Department of Agriculture Hunger-Free Communities Grant,¹¹³ the Mayor’s office also created the Sustainable Food Policy Council (“SFPC”) in October 2010. Composed of community leaders from all areas of food policy, the SFPC was formed to advise the city on food policy issues and programs.¹¹⁴ The goals of the SFPC include increasing local food production in Denver, which will enhance food security and improve access to locally produced food; improving the economic viability of urban agriculture; improving the health of Denver’s residents; and building awareness about the impacts of access to local, healthy food to encourage participation in the local food system.¹¹⁵

The city of Denver’s new policies and initiatives reflects work that was already being conducted by community groups. Troubled by the fact that less than 1% of the food consumed in the Denver metro region is produced within Colorado,¹¹⁶ these groups began

private acquisition of land for urban gardening efforts that would increase access to local food. Denver's first urban garden was created in 1985 by Denver Urban Gardens ("DUG"). In 2010, DUG celebrated its 25th anniversary by breaking ground on its 100th community garden. DUG supports community gardens in the metro Denver area by operating a CSA program and offering composting, gardening, and nutrition classes to communities and school children.¹¹⁷ Since 2004, DUG has worked with the Colorado School of Public Health through the "Gardens for Growing Healthy Communities" initiative, funded by the Centers for Disease Control and Prevention and other private research organizations to examine how gardens support healthy living.¹¹⁸ Notably, the initiative found that 88% of non-gardeners would like to see gardens in their neighborhood.¹¹⁹

Feed Denver, another community group that supports urban agriculture in Denver, creates farms in the city to help residents and refugees gain hands-on job training and entrepreneurial skills that will transfer to employment.¹²⁰ Feed Denver networks local fresh food production with direct markets, and provides workshops, courses, and training for urban farming.¹²¹ Similarly, Denver Urban Homesteading works to promote the local food movement by maintaining a farmers' market¹²² located in a large commercial-industrial building where local food producers can sell their products.¹²³

CODE STATUS

On June 21, 2010, the Denver City Council unanimously adopted a comprehensive update to the zoning code, which took effect on June 25, 2010. The updated code is helping Denver meet its goals of increasing access to fresh, local food by allowing gardening in many urban and suburban residential districts. The updated code includes definitions for "Garden" and "Garden, Urban."

The newly updated zoning code prohibits retail or wholesale sale of goods or products derived from urban gardening in all residential districts. Additionally, the zoning code does not allow for poultry as a permitted domestic animal in residential districts, but residents may apply for a special permit from the Zoning Permit Review Board. The city has drafted a Food Producing Animals Ordinance, for which the City Council will hold a public hearing on June 13, 2011.¹²⁴

URBAN AGRICULTURE IN DENVER

Currently, the city of Denver has over 100 community gardens and urban farms, and 15 farmers' markets registered with the USDA Agricultural Marketing Service.¹²⁵ To increase these numbers, groups like UrbiCulture Farms are helping community members transform vacant lots, city land, and church land into spaces to grow food and raise small, food-producing animals like chickens and bees.¹²⁶

To further facilitate the growth of urban gardens in Denver, the city's updated zoning code provides definitions for both gardens and urban gardens, and permits gardens

in all residential areas. The code also allows urban farming and community gardens on both private and public property.

A “garden” is defined in the code as a facility for the growing and cultivation of fruits, flowers, herbs, vegetables, and or/ornamental plants. An “urban garden” is defined as a private or public facility for the growing and/or selling of fruits, flowers, vegetables, or ornamental plants by one or more persons. Urban gardens may have accessory buildings incidental to or necessary for the use’s operation, including but not limited to detached utility buildings for storage and irrigation systems or equipment.¹²⁷ The code allows for the keeping of bees within an urban garden—with a maximum of two screened-in hives per lot, provided that the hive must be in the rear third of the lot with a 5 foot buffer from all lot setbacks.¹²⁸ In addition to the beekeeping provision, the new code allows residents to apply for special permits to keep animals for the production of food products for personal consumption.¹²⁹

The code does not address who will be responsible for garden maintenance, but does provide that the urban garden must be maintained by watering, pruning, pest control, and removal of dead or diseased plant material.¹³⁰ Permits are only necessary if the farm will house animals, and the city is currently working to improve the permitting process.¹³¹ The code does not address issues such as liability, traffic, parking, or signage requirements. It is also unclear how the zoning code will be enforced, the length of time land can be used as a garden, and how access to water is obtained.

DETROIT, MICHIGAN

BACKGROUND: REGIONAL, POLITICAL AND HISTORICAL CONTEXT

With a land area of 138 square miles,¹³² Detroit, Michigan is home to just over 900,000 residents.¹³³ Detroit has a thriving grassroots urban agriculture movement and an extensive network of community groups focused on food security. Over 600 community gardens have been created in the city, in spite of the absence of permissive zoning regulations.¹³⁴ Detroit ranked 30th in “Local Food & Agriculture” and 31st overall in SustainLane’s city sustainability rankings.¹³⁵

Under the current zoning code, agriculture is not a permitted use anywhere in Detroit. Accordingly, urban agriculture groups describe Detroit’s community gardens as “flying under the radar.”¹³⁶ Detroit stands to benefit tremendously from expanding urban agriculture – turning publicly owned parcels of vacant land into urban farms and community gardens could supply Detroit residents with more than 75 percent of their fresh vegetables and 40 percent of their fresh fruits.¹³⁷ Recognizing the incongruity between its restrictive zoning code and the fact that residents and community groups are already engaging in urban agriculture, on May 23, 2010, the City Planning Commission submitted a Draft Policy to the City Council to revise the zoning code to permit urban agriculture. The Council has not yet revised the code.¹³⁸

CODE STATUS

Currently, agriculture is not a permitted use in any zoning districts, and the code does not address urban agriculture or community gardening.¹³⁹ As discussed below, the Michigan Right to Farm Act, presents barriers to the city’s ability to revise the code to permit urban agriculture.

URBAN AGRICULTURE DETROIT

The zoning code does not define urban agriculture or community gardens. The City Planning Commission’s Draft Policy defines “agricultural urbanism” as a “planning, policy, and design framework that focuses on integrating a wide range of sustainable food system elements into urban planning projects and neighborhoods.”¹⁴⁰ The Draft Policy proposes revising the zoning code in two stages: first determining in which zoning districts urban agriculture activities will be allowed and under what standards and circumstances, and then addressing the keeping of animals like bees, rabbits, chickens, and horses.¹⁴¹

A potential hurdle to amending the code to permit urban agriculture is the Michigan Right to Farm Act (“RTFA”). The RTFA was enacted in 1981 to protect farmers from nuisance suits as suburbs expanded into areas previously used as farmland.¹⁴² To prevent local governments from enacting ordinances to restrict farm practices, the RTFA expressly preempts any jurisdiction lower than the state from enacting ordinances, regulations, or

resolutions that conflict with the provisions of the Act or with best management practices adopted by the Michigan Commission of Agriculture.¹⁴³ According to an analysis by Kami Pothukuchi, associate professor of urban planning at Wayne State University and vice president of the Detroit Food Policy Council, the RTFA's preemptive effect presents a significant legal barrier to the passage of zoning laws to facilitate urban agriculture. To make zoning regulations with respect to urban agriculture, Detroit must first exempt itself from the RTFA.¹⁴⁴

MILWAUKEE, WISCONSIN

BACKGROUND: REGIONAL, POLITICAL AND HISTORICAL CONTEXT

Milwaukee, Wisconsin has a population of just over 600,000 residents and a land area of 96 square miles.¹⁴⁵ Milwaukee ranked 6th in “Local Food & Agriculture” and 12th overall in the 2008 SustainLane city sustainability rankings.¹⁴⁶ The city created an Office of Environmental Sustainability in 2004 that focuses primarily on energy efficiency and sustainable manufacturing,¹⁴⁷ but does not address urban agriculture. Instead, community and non-profit groups have largely driven Milwaukee’s urban agriculture movement.

Milwaukee boasts dozens of community gardens and is home to some of the nation’s most prominent urban agriculture groups. For example, Milwaukee Urban Gardens is a non-profit land trust that acquires land for community gardens and provides educational and community support for urban gardeners.¹⁴⁸ In ten years of operation, Milwaukee Urban Gardens has established 19 community gardens, many of which are located on land leased from the city.¹⁴⁹

Milwaukee is also home to Growing Power, a nationally acclaimed urban agriculture group founded by former professional basketball player Will Allen. Created in 1995, Growing Power is a non-profit organization and a land trust devoted to creating a local food system.¹⁵⁰ Growing Power runs a two acre farm within the city limits, maintains 14 green houses that provide food to over 10,000 residents, and works extensively with other community groups to support urban agriculture and increase low income residents’ access to fresh food.¹⁵¹ The organization now plans to build a five-story vertical farm, the first of its kind in the nation, which will raise fruits, vegetables, herbs, and fish year-round.¹⁵² The MacArthur Foundation has recognized Growing Power’s accomplishments by awarding Will Allen a MacArthur Fellowship.¹⁵³

The city has been involved with groups like Growing Power and supports local food efforts. Through its Seasonal Plot Permit Program, the city gives individuals licenses to land for a single growing season.¹⁵⁴ Additionally, the Department of City Development makes three-year leases with community agriculture groups. These longer-term leases allow community gardens to have more secure tenure on city-owned land.

Milwaukee has not begun an urban agriculture initiative of its own, but it has revised its zoning code to include agriculture uses.¹⁵⁵

CODE STATUS

Although it does not use the term “urban agriculture,” the Milwaukee zoning code has a permissive “agriculture use” category encompassing community gardens. This use is allowed in residential, commercial, institutional, and parks districts.

The city has amended its code several times in the last year to remove barriers and actively promote urban agriculture. In March of 2010, the city amended its Code of Ordinances to allow residents to keep honeybees on private property. Later that year, the city amended the code to allow seasonal markets to operate for a greater number of days each year, and to permit “raising of crops or livestock” as a special use in commercial and institutional districts. Most recently, in January of 2011, the city amended the code to permit hoop houses and to permit the construction of Growing Power’s vertical farm.¹⁵⁶

URBAN AGRICULTURE IN MILWAUKEE

As noted above, Milwaukee’s zoning code does not use the term “urban agriculture” but does include a permissive “agricultural use” category for residential, commercial, institutional, and park zoning districts. “Agricultural Uses” include: “plant nursery or greenhouse,” and “raising of crops or livestock.” The zoning code specifies that in all residential districts both agricultural uses are permitted. In commercial districts and institutional districts, both agricultural uses are special uses requiring a permit. In parks districts, plant nurseries or green houses are limited uses, but raising crops or livestock is permitted.¹⁵⁷

A “Plant Nursery or Greenhouse” is defined as “an establishment engaged in growing crops of any kind within or under a greenhouse, cold frame, cloth house or lath house, or growing nursery stock, annual or perennial flowers, vegetables or other garden or landscaping plants.”¹⁵⁸ Additionally, the “Raising of Crops or Livestock” is defined as “the growing of crops, including any farm, orchard, community garden or other premises or establishment used for the growing of crops, or the use of land or buildings for the keeping of cows, cattle, horses, sheep, swine, goats, chickens, ducks, turkeys, geese or any other domesticated livestock,” as permitted by the health department.¹⁵⁹

The zoning code also defines “Seasonal Markets.” “Seasonal Markets” are “temporary facilit[ies] used to conduct retail trade for a period not exceeding 180 days in a calendar.”¹⁶⁰ These markets are limited uses in all residential,¹⁶¹ commercial,¹⁶² and park zones.¹⁶³

The zoning code permits community gardens wherever growing crops or livestock is permitted, but it does not explicitly define “community gardens.” The zoning code does not require permits for community gardens nor does it address design specifications such as signage requirements or minimum lot size. Community gardens that are created as a part of the city’s Seasonal Garden Plot Permit Program, however, are subject to several design requirements relating to fencing and raised garden beds.¹⁶⁴

Although the zoning code allows raising livestock where agriculture uses are permitted, Chapter 78 of Volume 1 of the City Code of Ordinances prohibits raising livestock within city limits.¹⁶⁵ Despite this restriction, some people have been raising

chickens within the city, and the Department of Neighborhood Services received about 10 complaints each month regarding illegal coops. On May 24, 2011, the Common Council voted 8 to 5 to approve an ordinance that allows Milwaukee residents to keep up to four hens but no roosters.¹⁶⁶ The ordinance is on a trial basis and expires one year from the effective date, July 28, 2012, unless it is reauthorized by the Common Council. To keep chickens, citizens must obtain written consent from their neighbors and a \$35 permit.¹⁶⁷

Chapter 78 of the City Code of Ordinances was amended in March of 2010 to allow residents to keep bees. Residents may now keep up to two hives per lot in residential districts, with a permit and while following design specifications.¹⁶⁸ Chapter 78 lists specifications relating to the species of bee that may be kept, fences and enclosures, setback requirements from buildings and property lines, and water requirements. When a resident applies for a permit, notice is given to other property owners within a 200 foot radius of the proposed hives, and they have 14 days to protest the permit.¹⁶⁹

Although community groups like Growing Power remain the driving force behind urban agriculture, Milwaukee has supported the movement by amending its already permissive zoning code to expand both the zoning districts in which urban agriculture can occur and the types of uses that are permitted. The city also partnered with groups to provide land for gardening. As of January of 2011, the city has issued 21 garden permits and eight three-year garden leases through its Seasonal Plot Permit Program.¹⁷⁰

MINNEAPOLIS, MINNESOTA

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Minneapolis, Minnesota has a land area of 55 square miles and is home to more than 380,000 residents.¹⁷¹ Together, Minneapolis and St. Paul are known as the “Twin Cities,” and the combined metro area has more than 3,000,000 residents.¹⁷² Minneapolis was ranked 1st in “Local Food & Agriculture” and 7th overall in the 2008 SustainLane city sustainability rankings.¹⁷³ Minneapolis’s thriving urban agriculture movement has received enthusiastic encouragement from the city, which strives to actively promote and facilitate urban agriculture.

The city’s efforts to expand urban agriculture grow from its broader efforts to improve sustainability. In 2003, Minneapolis adopted a Sustainability Program. In 2009, the city produced its fourth annual Living Well Sustainability Report,¹⁷⁴ revised its Sustainability Indicators (including adding a Local Foods indicator), and began Homegrown Minneapolis (“HGM”).¹⁷⁵ HGM is an initiative to “improve the growth, sales, distribution, and consumption of healthy, locally grown foods within the city and the surrounding region.”¹⁷⁶ The Minneapolis Department of Health & Family Services leads HGM, which is composed of a large stakeholder group of community members and leaders of local urban agriculture groups.¹⁷⁷ HGM supports the Department’s work as part of the Steps to a Healthier Minneapolis grant—a 5-year, federally funded grant focused on obesity prevention).¹⁷⁸ HGM works through an Implementation Task Force, which has established eight different workgroups to handle specific issues relating to urban agriculture. For example, there is a Long-Term Food Advisory workgroup, a Food Access workgroup, and a Community Garden Program workgroup.¹⁷⁹

HGM was designed to be collaborative and build on existing community resources by bringing together local food activists and organizations already working in the Twin Cities. HGM’s goals are to realize the benefits of a local food system, including the support to small businesses and recirculation of capital within the city, improved health of residents, improved food security and safety, increased equity, and environmental benefits of reduced water and air pollution.¹⁸⁰ Over the last three years, HGM has significantly advanced urban agriculture within Minneapolis in several key ways. Most importantly, it amended city ordinances and regulations and promoted policies to allow beekeeping and indoor farmers’ markets.¹⁸¹ Additionally, HGM created and worked with resource networks to initiate and support community involvement and develop frameworks that have allowed community members to expand urban agriculture, including an extensive land inventory analysis. Finally, it created an Urban Agriculture Policy Plan, which identifies changes to city zoning ordinances to facilitate urban agriculture. The Minneapolis City Council adopted the Plan on April 15, 2011.¹⁸²

The Plan is a “comprehensive policy to guide land use decisions related to urban food production and distribution.” It helps identify where and how land should be used to grow and distribute food through community and commercial gardens and urban farms. While the Plan notes that there is not one accepted definition of “urban agriculture,” it states that the term “generally describes the effort of supporting local food production, processing, distribution, and consumption in the urban environment.”¹⁸³ The key recommendations from the Plan include: defining urban agriculture related activities such as market gardens and urban farms, incorporating urban agriculture into long range planning efforts, and encouraging urban agriculture in new development projects.¹⁸⁴

CODE STATUS

With a few exceptions described below, Minneapolis has not yet made significant amendments to its zoning code to fully accommodate urban agriculture. The Plan lays out the current state of and recommended changes to the zoning code.¹⁸⁵ Since the Plan has been adopted, it will be incorporated into the city’s comprehensive plan, *The Minneapolis Plan for Sustainable Growth*.¹⁸⁶ The City Council will then be empowered to amend the zoning code.

Prior to the adoption of the Plan, the zoning code was amended in the following ways: beekeeping is allowed in the city, indoor farmers’ markets are allowed, grocery stores can host farmers’ market vendors, most corner stores are required to offer at least five varieties of fresh fruits and vegetables, and mobile food vendors are allowed to sell non-packaged food downtown.¹⁸⁷

URBAN AGRICULTURE IN MINNEAPOLIS

Currently, the zoning code is largely silent with respect to key aspects of urban agriculture. The Plan has two main goals for amending the zoning code:¹⁸⁸ To define “market gardens,” “urban farms,” “community gardens,” “aquaculture,” and “anaerobic digesters;” and to evaluate the appropriate zoning districts for these uses.

Currently, “community garden” is not defined in the zoning code, but community gardens are allowed in most zoning districts, including all residential districts, subject to a few development standards. Although not defined in the zoning code, the city has defined “community garden” as “any space where plants are grown and maintained by a non-profit organization or group of individuals to meet the needs of that community,” or alternatively, “a plot of ground managed and maintained by a group of individuals where herbs, fruits, flowers, or vegetables are cultivated for personal or group use.”¹⁸⁹ The Plan notes that community gardens are managed and owned by a variety of organizations, and that often community garden space is leased by a community group from a governmental organization like the City of Minneapolis. The Plan’s recommendations for changing the zoning code to accommodate community gardens include amending the development

standards for community gardens to allow for larger signage within the garden areas (for billboard-like messages), larger hoop houses, and the periodic sale of produce. Additionally, signage regulations would be amended to allow farmers' market signs to remain on-site all year, but require that the sign be removed after a farmers' market closes permanently.¹⁹⁰

"Commercial garden" or "market garden" describes operations similar in scale and intensity to a community garden that sell commercially. There is not a threshold to differentiate a market garden from an urban farm, and neither term appears in the zoning code. Proposed changes include allowing market gardens in a variety of zoning districts, including low-density residential areas, rooftops, and on the ground. The Plan also suggests setting a maximum lot area and other performance standards for market gardens to better integrate them into neighborhoods and establishing design standards for market gardens similar to community gardens. Additionally, the proposed changes would prohibit ground-based market gardens in high-density development districts such as in Downtown, Growth Centers, and Activity Centers. Market gardens would need to be on rooftops in these areas.

The Plan defines an "urban farm" as "a commercial growing operation that is generally larger in scale than a community garden."¹⁹¹ An urban farm is generally considered a commercial operation with a greater intensity of use than a community garden and may not be an appropriate land use in all zoning districts. The term "urban farm" does not appear in the zoning code. Proposed changes include allowing urban farms in Industrial districts and some Commercial districts, defining aquaculture as an urban farm related activity, and deciding which Industrial districts are appropriate for anaerobic digesters to designate in the code.

"Residential garden" is not defined in the Plan or mentioned in the zoning code. The Plan proposes changing the list of permitted obstructions in the front yard setback to allow for planting beds in front yards, and determining a maximum height for the beds and minimum setbacks from the property lines.¹⁹² The Plan also proposes making provisions for trellises designed for growing food to be allowed in residential gardens.¹⁹³

The city had been working on separate efforts to improve regulation of farmers' markets before adopting the Plan. The Plan defines a farmers' market as "a location where area farmers and other vendors sell produce, typically in an open air format."¹⁹⁴ The zoning code defines farmers' markets as "a publicly or privately operated establishment where primarily agricultural products such as raw vegetables, fruits, syrups, herbs, flowers, plants, nuts or handcrafted items are sold." The code allows non-agricultural products to be sold but the area dedicated to such products shall not occupy more than 25 percent of the total sales area, and canopies are permitted to provide protection from the elements for both the operators and the products.¹⁹⁵ Currently, farmers' markets are allowed in most

zoning districts, with certain restrictions depending on whether the market is temporary or permanent. Examples of requirements for farmers' markets include minimum site size, a market plan, and limitations on the number of days the market operates during the year.

Through the work of the city and community groups, and facilitated by a permissive if underdeveloped zoning code, urban agriculture in Minneapolis has flourished. At the end of 2010, there were approximately 100 gardens on 18 acres of land,¹⁹⁶ and the city has more than tripled its number of farmers' markets to 21.¹⁹⁷ Implementing the recommendations of the Plan will make it even easier for individuals and groups to participate in urban agriculture activities.

In addition to initiating HGM and revisions to the code, the city has taken other important steps to promote urban agriculture. Minneapolis has established extensive community networks, knowledge bases, and 'working groups' to develop the resources and support needed to achieve a comprehensive urban agriculture program. For example, Minneapolis has (1) initiated the development of Food Preservation and Local Food Resource Networks; (2) developed a small-business training and financing resource guide to support people interested in starting up food-related businesses; (3) started the EMERGE Youth Community Garden to teach teenagers about local food production and sustainability through the Minneapolis Employment and Training Program;¹⁹⁸ (4) created an inventory of community kitchens around the city that can be used by individuals or small businesses to prepare, store, or preserve food;¹⁹⁹ and (5) helped farmers' markets use Electronic Benefits Transfer systems so fresh, local food is accessible to all residents.²⁰⁰

Additionally, Minneapolis inventoried its parcels available for community gardens and made this information readily accessible on the Homegrown Minneapolis website.²⁰¹ Minneapolis hired a land planning firm to assess factors like forecasted residential and job growth, recent development patterns, and land supply (vacant and underutilized land) and land demand to analyze the city's capacity for urban agriculture over the next 20 years.²⁰² In March of 2010, Minneapolis launched its Community Garden Pilot Program to facilitate the creation of community gardens on city land. The city has 18 plots available, and these plots were selected specifically because the city considered them to be "non-buildable," and thus, available for many years.²⁰³ The Program includes an application and lease mechanism. Groups that qualify for leases are not-for-profit, or groups with not-for-profit sponsors. Groups that are gardening for the first time are eligible for one year leases, while more experienced community gardening groups may have leases for three or five years. The leases are for a nominal \$1 fee and require a \$250 security deposit, and groups are required to have liability insurance.²⁰⁴ The city has also published a Community Garden Resource List and a model community garden site plan.²⁰⁵

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18 acres of land,²⁰⁶ and with the help of HGM the city has more than tripled its number of farmers' markets to 21.²⁰⁷ Implementing the recommendations of the Plan will make it even easier for individuals and groups to participate in urban agriculture activities.

NASHVILLE, TENNESSEE

BACKGROUND: REGIONAL, POLITICAL AND HISTORICAL CONTEXT

Nashville, Tennessee encompasses 502 square miles²⁰⁸ and over 625,000 residents call the city home.²⁰⁹ Nashville is growing rapidly, and the population of the county in which Nashville sits has increased almost 7% between 2000 and 2010.²¹⁰ Amidst this growth, SustainLane ranked Nashville 36th in the “Local Food & Agriculture” category and 40th overall in its 2008 city sustainability rankings.²¹¹

In an effort to improve its sustainability rankings, the city of Nashville launched the Green Ribbon Committee on Environmental Sustainability in 2008. The Green Ribbon Committee published a report in June of 2009 setting forth 16 goals and giving 71 recommendations to improve sustainability in Nashville.²¹² The city opened its Office of the Environment and Sustainability to support the Report’s objectives in April 2010.²¹³

One of the 16 goals that the Report listed was “developing a locally based food system.”²¹⁴ To achieve this goal, the Report recommended that the city: (1) develop a Middle Tennessee Food Shed Asset Map; (2) expand community gardens and ensure the right to farm in appropriate areas; (3) encourage family backyard gardens, rooftop gardens, edible landscapes, composting, and commercial urban agriculture in the urban core; (4) encourage fruit and vegetable production, beekeeping, dairy and egg production, and animal husbandry where appropriate; (5) review all municipal codes, ordinances, and regulations, and amend them so as to remove barriers to urban agriculture (although the Report did not provide how the code should be amended); and (6) hire a full-time urban agriculture specialist to initiate a city-wide urban agriculture policy.²¹⁵

Community efforts largely drove publication of the Report and continue to drive Nashville’s urban agriculture movement. The city partnered with community groups to amend its zoning code and support the creation of community gardens. For example, the Food Security Partners of Middle Tennessee, Nashville Urban Harvest, Edgehill Community Garden, and Friends of the Nashville Farmers’ Market all assisted to create legislation that amends the zoning code to permit community gardens in 2009.²¹⁶ The Metro Board of Parks and Recreation sponsors GROW Nashville to provide support and resources to the community garden projects in and around Nashville.²¹⁷ Finally, the Metropolitan Housing Authority, which oversees Nashville’s low-income public housing, began constructing its own community garden in the spring of 2010.²¹⁸

CODE STATUS

In June of 2009, the City Council amended the Nashville zoning code to permit community gardens. Prior to this amendment, the code prohibited community gardens in residential areas.²¹⁹ The amendment also adds non-commercial community gardening as a

permissible use for agricultural districts, single-family and double-family districts, commercial districts, and industrial districts. The code now includes commercial community gardening as a permitted use in commercial and industrial districts, and as a use permitted by special exception in some residential districts. Finally, the code also includes definitions for both commercial and non-commercial community gardening.²²⁰

URBAN AGRICULTURE IN NASHVILLE

Nashville's zoning code does not define "urban agriculture." It does, however, define "commercial" and "non-commercial community gardening." The code defines "commercial community gardening" as "an individual or group of individuals growing and harvesting food crops and/or non-food, ornamental crops, such as flowers, for commercial sale." It defines "non-commercial community gardening" as "a group of individuals growing and harvesting food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption, or donation." Thus, "non-commercial community gardening" refers to crops for use and consumption by growers only.²²¹

The Nashville code specifies that one or more individuals may divide both commercial community gardens and non-commercial community gardens into separate plots for cultivation, or members of the group may farm them collectively. These gardens may also include common areas maintained and used by group members. The code provides further specifications for commercial community gardens with respect to lighting, compost, disposal of waste, parking, cleanliness, and drainage.²²²

The code permits "non-commercial community gardens" in single and double family residential districts and in all agricultural, commercial, downtown, and industrial districts. However, "commercial community gardens" are only permitted in these same districts; to place a commercial community garden in a residential district, however, requires a special exception.²²³

The zoning code does not address poultry specifically. It permits domestic animals as accessories to principle uses in single and double family residential zoning districts on lots that are greater than 5 acres. A domestic animal is defined as "native and exotic animals and common domestic farm animals, defined as Class II and Class III wildlife (Tennessee Code Annotated 70-4-403), which are kept outdoors for any purpose other than agricultural business."²²⁴

Shortly after the June 2009 amendments, a proposal was made to further amend the code to address poultry. The introduction to the proposed amendment noted that the current zoning regulations "do not support a livable and sustainable city."²²⁵ The amendment changed the existing definition of "domestic animal" to "farm animals that may be maintained for commercial production or sale on a farm or for family food production, educational or recreational purposes." Poultry was made an accessory use in residential

districts, subject to limitations on the number of animals allowed, the location and specification of enclosures, and setbacks. It would specify the number of birds that residents would be able to keep, gave specifications for enclosures and their location, and set a minimum setback of 25 feet from a building and 10 feet from a property line.²²⁶

The amendment was approved by the Metro Planning Commission, but was rejected by the City Council (15 for, 2 abstaining, and 20 against).²²⁷ Recently, challenges have been raised in courts regarding Nashville's prohibition on keeping poultry.

NEW YORK, NEW YORK

BACKGROUND: REGIONAL, POLITICAL AND HISTORICAL CONTEXT

New York is the most populous city in the U.S., with 8.4 million residents distributed over a land area of only 305 square miles. New York was ranked 25th in “Local Food & Agriculture,” and 5th overall in the SustainLane 2008 city sustainability rankings.²²⁸

New York City began addressing urban agriculture as early as the beginning of the 20th century. Indeed, New York has one of the longest-established government programs. The New York City Department of Parks and Recreation website provides a detailed review of the history of urban agriculture in the city.²²⁹ Beginning in the early 20th century with Children’s Farm Gardens all the way to the present, New York’s history with urban agriculture is interesting. The city’s modern urban agriculture programs were born in the 1970s. Motivated by the economic crisis that left many lots abandoned, New York resident Liz Christy²³⁰ and other volunteers spent a year preparing one such lot for a garden. The New York City Office of Housing Preservation and Development leased the lot to Christy for \$1 a month in 1974.²³¹ This garden helped demonstrate the value of citizen involvement in “grassroots neighborhood revitalization efforts.”²³² As a result, the city initiated the GreenThumb program in 1978 to support the growing number of community gardens. GreenThumb was initially sponsored by the City Department of General Services and funded by federal Housing and Urban Development block grants.²³³

As the GreenThumb program grew, agreements between the community and the city matured and multiplied as well. Initially, the city leased the land to the community members. Only later did the leases become licensing agreements, which provided that gardens were “strictly temporary, and the city reserved the right to develop vacant lots.”²³⁴ The program continued to grow into the 1980s, and in 1984, the city returned to leasing the land. It was at this time that the city introduced ten-year leases through the Garden Preservation Program. Further, certain pieces of land were designated as a “preservation site” through the Program, and “the City Land Committee conferred a special status to [these] sites for permanent use as community gardens as long as they were actively maintained.”²³⁵

The ten-year lease program did not ease the tension between the community members who wanted to preserve the gardens and those who wanted to develop the land. In the 1990s, Attorney General Eliot Spitzer fostered an agreement with the city to permanently preserve more than 400 sites. Some sites were left under the city’s jurisdiction and others were transferred to the Parks Department. The nongovernmental New York Restoration Project (“NYRP”) was very influential in the preservation of many of these parks that were designated as permanently preserved sites. Today NYRP “works to

remove debris from sites and restore parcels of land, assist community gardens and gardeners, and raise funds to support these goals.”²³⁶

According to the New York City Department of Parks and Recreation, GreenThumb is “the nation’s largest urban gardening program, providing assistance and support to over 600 gardens and nearly 20,000 garden members throughout the city.”²³⁷ The Department notes that “community gardens account for over 32 acres of parkland in the city....Most community gardens are the size of a single lot (just a fraction of an acre), but there are a few...that have blossomed into over one acre.”²³⁸ GreenThumb helps groups purchase plants for the gardens, provides materials, technical assistance, and promotes environmental initiatives such as capturing rainwater.²³⁹

CODE STATUS

New York City has a relatively well-established code regulating community gardens. Each GreenThumb garden must comply with the GreenThumb provisions of the New York Parks & Recreation Rules and Regulations. These regulations, however, fail to address home or individual gardening.

The Department of Health and Mental Hygiene code of ordinances addresses the keeping of poultry and bees. In July 2010, the Department amended its code to remove non-aggressive honey bees from the “venomous insect” list, allowing for beekeeping within the city.

URBAN AGRICULTURE IN NEW YORK CITY

New York City addresses the issue of urban agriculture in three main ways: (1) the GreenThumb program, administered by the Department of Parks and Recreation, (2) animal husbandry, governed by zoning ordinances and health codes, and (3) beekeeping, governed by the recently amended health code.

As discussed above, the GreenThumb program regulates community gardens. The Department of Parks and Recreation’s rules address the establishment of new community gardens, applications from existing gardens, and issuing and renewing community garden licenses. The rules do not, however, provide guidance on what may be grown. The rules provide that all lots under the Department’s jurisdiction and currently used for gardens will be preserved as gardens as long as they comply with the Department’s registration and licensing requirements. Licenses require the garden to be kept in a “safe and orderly condition.”²⁴⁰

New York’s GreenThumb program also addresses issues relating to water access and signage. GreenThumb gardens must receive a permit from the Department of Environmental Protection to use water from a city water hydrant. The Department of Environmental Protection’s code on Water Use Restrictions and Fire Hydrant Use has an

exemption for community gardens.²⁴¹ The code provides that watering a community garden is not an application that poses the threat of backflow and so the hydrant be used without compliance with stricter regulation. All GreenThumb gardens must have a GreenThumb sign (with open hours posted) and a Parks Department sign; they may also have a “no dumping” sign and a “curb your dog” sign.²⁴²

While the Department of Parks and Recreation GreenThumb regulations do not explicitly address the keeping of livestock and poultry, they do allow for “other uses of the Lot that are compatible with gardening and are authorized pursuant to the License.”²⁴³ Keeping chickens falls within the “other use” category and is permitted within city limits, subject to certain restrictions.²⁴⁴ New York City’s Health Code requires that “no person shall keep for sale live rabbits or live poultry, including chickens, geese, ducks or other fowl, without a permit issued by the Commissioner.”²⁴⁵ The Commissioner will not issue a permit if the live rabbits or poultry will be kept on the same property as a multiple dwelling, unless the consent of the occupants is obtained. Chicken coops must be more than 25 feet from an inhabited building other than a one-family home occupied by the applicant. If the applicant wishing to keep chickens does not own the property, he or she must submit to the Department the written consent of the owner of the lot on which the poultry or rabbits are to be kept. It is important to note that a permit is not required if the animals are not kept to be sold.

Particular organizations in New York help community gardens obtain chickens. The Just Food organization, which claims to have “been the leader in connecting local farms to NYC neighborhoods and communities since 1995,”²⁴⁶ runs the “City Chickens” project. Community gardens must apply and be approved to become “City Chicken” sites. If approved, Just Food will provide training, materials, and chickens to the community garden.²⁴⁷

Since July 2010, the Department of Health and Mental Hygiene Code has allowed for the raising of non-aggressive honey bees. Those who wish to keep honey bees must file a notice with the Department of Health and Mental Hygiene containing the beekeeper’s contact information and the location of the hive. The beekeepers must adhere to “appropriate beekeeping practices including maintaining bee colonies in moveable-frame hives that are kept in sound and usable condition; providing a constant and adequate water source; locating hives so that the movement of bees does not become an animal nuisance...and be able to respond immediately to control bee swarms and to remediate nuisance conditions.”²⁴⁸

Noticeably absent from New York City’s rules and regulations are any mention of individual or home gardens. It is also not clear whether community gardens that are not part of the GreenThumb program are allowed. Additionally, the city’s codes do not mention or address the on-site or off-site sale of produce.

PHILADELPHIA, PENNSYLVANIA

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Philadelphia, Pennsylvania is the fifth-most populous city in the United States with an estimated 1.5 million residents.²⁴⁹ Philadelphia was ranked 7th in “Local Food & Agriculture” and 8th overall in the 2008 SustainLane city sustainability rankings.²⁵⁰

Like many other large cities, the urban agriculture movement in Philadelphia has evolved as a citizen-driven response to economic downturn. Historically, during difficult economic times, citizens of Philadelphia turned to growing their own food because of the city’s ideal growing conditions, with “relatively short winters and extended fall and spring seasons that aren’t so wet and warm that they invite the plagues of the pests that rule further south.”²⁵¹ Despite these ideal conditions, urban farming in Philadelphia has declined in the past few decades. A study conducted by the University of Pennsylvania’s Planning and Urban Studies Program found that between 1996 and 2008, food producing community and squatter gardens in Philadelphia declined in number from 501 to 226.²⁵² However, recent efforts by both the city and local organizations demonstrate a resurgence of interest in urban agriculture.

One such local organization is the Neighborhood Gardens Association/A Philadelphia Land Trust (“NGA”). NGA is a non-profit organization whose mission is the long-term preservation of existing community-managed gardens and open spaces in Philadelphia.²⁵³ Organized in 1986, NGA resulted from the efforts of the Pennsylvania Horticultural Society, the Pennsylvania State University Urban Gardening Program, local business representatives, and community gardeners.²⁵⁴ The group manages the taxes and insurance for community gardens and allows citizens to garden. It also assists with property ownership research, legal work, and negotiations to acquire the gardens. In some instances, NGA holds title to the gardens.

Another group, Marathon Loves Philadelphia,²⁵⁵ is spearheading a project called Marathon Farm. The Philadelphia Department of Public Property leased the group a 15,750 square foot parcel of land on January 4, 2011 for two years and, if the farm is successful, will extend the lease term.²⁵⁶

In addition to leasing land to certain non-profit groups, the city is getting involved in urban agriculture in other ways. In spring 2010, the city proposed an “urban farm incubator” at a historic farmstead that is currently part of Philadelphia’s park system. Called Manatawna Farm, the project was “dedicated to chemical-free, commercial farming” and “prospective farmers [would] buy a \$500 fee for a one-year lease on a half-acre plot that comes complete with irrigation hookups, fencing, post-harvest workstations, and even toilets.”²⁵⁷ However, neighboring property owners opposed using this particular piece of

land for commercial urban agriculture, and passed an ordinance prohibiting the project in November 2010. For the previous 12 years, the land had been used to provide hay to a local high school's agricultural program to feed animals, the 4-H club, and the local chapter of the Future Farmers of America, and the community wished it to remain available for these purposes.²⁵⁸ Other locations for the farm were proposed at the meeting in which the ordinance was passed rejecting the project.

With both non-profit organizations and the city taking an active role in urban agriculture initiatives, Philadelphia is joining the many cities across the country seeking to incorporate urban agriculture into their city profile. In fact, Philadelphia is attempting to revise its zoning code to include urban agriculture language.

CODE STATUS

Philadelphia is undergoing the first comprehensive revision to its zoning laws in 50 years.²⁵⁹ As the city has occasionally made small modifications over the years, the current zoning code has evolved into a "myriad of individual ordinances and overlays, resulting in a very complicated document."²⁶⁰ The Philadelphia Zoning Code Commission is attempting to fix this problem through the comprehensive revision. In February 2011, the Commission published the Zoning Code Commission Referral Draft version 2 (the "Draft"). The Draft reflects revisions from September and December 2010. In May 2011, the Zoning Code Commission sent its proposals to the City Council,²⁶¹ who will soon hold hearings to decide what portions of the Draft to adopt.

URBAN AGRICULTURE IN PHILADELPHIA

The Draft proposes to "allow more broadly [urban agriculture] as a primary use of land."²⁶² Towards this end, it includes an "Urban Agriculture Use Category."²⁶³ The use categories in the Draft provide a categorization system used to classify principal uses in the zoning code.²⁶⁴ The Urban Agriculture Use Category "includes uses such as gardens, farms and orchards that involve the raising and harvesting of food and non-food crops and the raising of animals." Within the Urban Agriculture Use category, the Zoning Commission has identified four subcategories: animal husbandry, community gardens, market or community-supported farm, and horticulture nurseries and greenhouses.

The first subchapter addresses animal husbandry. The animal husbandry subchapter is broad, including "uses that involve the feeding, housing, and care of farm animals for private or commercial purposes, subject to applicable Philadelphia Code regulations on farm animals."²⁶⁵ The farm animal provisions are incorporated into the Draft without revision and so presumably will stay consistent with the existing code. The existing code defines a farm animal as "any chicken, goose, duck, turkey, goat, sheep, pig, cow, or other animal, provided such other farm animal presents a public nuisance due to smell and/or noise."²⁶⁶ For the purposes of urban farmers, the farm animal section of the

existing code only allows a person to keep a farm animal “at a facility used for educational or scientific purposes, such as schools or laboratories or on a parcel of real property of three or more acres provided that this subsection shall not apply with respect to pigs.”²⁶⁷ Even with these existing restrictions, the districts in which the Draft allows animal husbandry are quite limited. Animal husbandry is not listed under allowed uses in residential or commercial districts. It is, however, allowed in most industrial districts.²⁶⁸

The second subchapter of the Urban Agriculture Use category addresses community gardens. The Draft defines “community garden” as “an area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops (e.g., flowers) for personal or group consumption, for donation, or for sale that is incidental in nature.”²⁶⁹ The community garden may be divided into separate garden plots or may be farmed collectively by members of the group, and it may include common areas such as tool storage sheds.²⁷⁰ The Draft allows community gardens to be principal or accessory uses, and they may be located on a roof or within a building.²⁷¹

The third subchapter addresses the Market or Community-Supported Farm (“CSF”) use. A CSF is, “an area managed and maintained by an individual or group of individuals to grow and harvest food crops or non-food crops (e.g., flowers) for sale or distribution that is not incidental in nature.”²⁷² Common areas such as tool sheds are not explicitly permitted in the CSF subchapter, but the Draft later requires that CSF “storage areas for tools and equipment must be enclosed and located as far as practicable from abutting residential uses,” thus indicating that common areas are allowed.²⁷³ The Draft includes revisions made in December 2010 that require CSFs to have “a fence of a dense vegetative screen” along “front, side and rear lot lines that are adjacent to a Residential zoning district.”²⁷⁴

For both community gardens and CSF use categories, the Draft places additional requirements on the property. Refuse and compost bins must be rodent-resistant and located as far as practicable from abutting residential uses, storage areas for tools and equipment must be enclosed and located as far as practicable from abutting residential uses, and, where keeping of animals is allowed, they must be fenced or enclosed as far as practicable from abutting residential uses. Additionally, no outdoor work activity that involves power equipment or generators may occur between sunset and sunrise.²⁷⁵

Community gardens and CSF uses are permitted in most districts. Community gardens are permitted by right in all districts.²⁷⁶ CSFs are allowed in all residential zoning districts, but require a special exception approval in certain districts.²⁷⁷ CSFs are also allowed in most commercial, industrial districts, and special purpose districts.²⁷⁸ It is only in commercial mixed-use 4 and 5 districts that only community gardens are permitted.²⁷⁹

The final subchapter of the Draft’s Urban Agriculture Use provisions addresses horticulture nurseries and greenhouses.²⁸⁰ Horticulture nurseries and greenhouses are

defined as property that has as its principal use practices “involving propagation and growth of plants in containers or in the ground for wholesale sales and distribution.”²⁸¹ Horticulture nurseries and greenhouses are allowed in residential or commercial zoning districts, but they are allowed in most industrial zoning districts.²⁸²

Aside from these four subchapters, the Draft addresses additional issues including sales, water and fertilizer, and parking. Generally, the Draft allows for sales to be conducted on the same lot as the urban agriculture use or in locations where retail sales are an allowed use.²⁸³ The community garden subchapter of the Draft was revised in September 2010 to add language allowing only sales that are “incidental in nature” on community garden properties.²⁸⁴ Language was also added to the CSF subchapter to allow for “sale or distribution that is not incidental in nature.”²⁸⁵

The Draft requires that all urban agriculture sites “be designed and maintained so that water and fertilizer will not drain onto adjacent property.”²⁸⁶

The Draft addresses parking only with regard to CSFs. The Draft exempts CSFs from being required to provide parking spaces in most residential and commercial districts if the lot area is less than 5,000 square feet. Otherwise, a minimum of two parking spaces is required.²⁸⁷ The CSF section was removed from the industrial district parking requirements in the December 2010 revisions to the Draft, and the industrial district section now only addresses horticulture nurseries and greenhouses. On those properties, one parking space is required for every 4,000 square feet of property.

Thus, the Draft addresses many issues regarding urban agriculture and particularly community gardens. However, it does not discuss setbacks, distance between gardens, signage, the affect on property values, traffic, liability, or upkeep. It is also unclear what type of enforcement will be used to ensure compliance with the urban agriculture use provisions or how access to water is obtained. As the Zoning Commission is currently rewriting the codes, it has the opportunity to revisit these issues and may address them in the final version.

Because the Zoning Commission has published several versions of the Draft with the understanding that it is a work in progress, there have been numerous public comments, both official and unofficial. In official comments to the Zoning Commission, the Pennsylvania Horticulture Society and multiple urban farmers commented that changing the definition of Community Garden to clarify by a dollar amount the level of sale or distribution that is considered “incidental” would be helpful.²⁸⁸ The commentators also noted a similar definition for the threshold amount of sales and distribution for CSFs use would be helpful. The Commission noted that it has previously considered these recommendations but has provided no further explanation as to why they were not adopted. The Pennsylvania Horticulture Society and multiple urban farmers also

recommended that the Commission make CSF use a special exception in certain residential, commercial, and special purpose districts where the Draft does not allow for CSF use.²⁸⁹ Commentators further requested the removal of the two parking space requirement for market and community supported farms. The Commission noted that this had been previously considered.²⁹⁰

Concern over the fence requirement for CSFs was voiced both informally and as official comments to the Zoning Commission. Bloggers had voiced concern over the cost of materials required to comply with the fencing requirements of CSFs after the Draft version of the code was released. This concern was conveyed to the Commission through the Pennsylvania Horticulture Society and multiple urban farmers' suggestion that all fencing requirements be removed from the code and, if required, that the Commission allow t-posts and turkey wire to be appropriate materials. The Commission noted that this suggestion had been previously considered.²⁹¹

It is yet to be seen whether these suggestions, and any others that have been sent to the "work plan committee," will eventually be adopted.

PORTLAND, OREGON

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Nestled in the Northwest corner of Oregon, Portland has an estimated 545,140 residents.²⁹² In 2008, Portland was named the greenest city in the United States by Popular Science;²⁹³ the same year it took 1st place in SustainLane's city sustainability rankings.²⁹⁴ Accordingly, it is not surprising that urban agriculture is well established and supported within the city. From decades-old municipal projects to recent efforts to revise its zoning code, the city of Portland has fully embraced the urban agriculture movement.

The Portland Department of Parks and Recreation adopted the Community Garden Program ("CGP") in 1975.²⁹⁵ Through CGP, farmers can rent their own plot and receive the necessary water, fencing, and support to begin their garden.²⁹⁶ Currently, there are 35 city-supported community gardens throughout Portland.²⁹⁷ CGP is very popular, and most community gardens have a waiting list of citizens wishing to join.²⁹⁸ In an article titled, *Case Studies of Community Gardens and Urban Agriculture: Portland, Oregon*, David Hess notes that as of 2005, "about 300 families were on waiting lists to get a garden plot and there was a three year waiting list."²⁹⁹

Other government organizations have been developed in conjunction with the Community Garden Program. One example is Produce for the People, another program of the Portland Department of Parks and Recreation. Produce for the People "links community gardens with local emergency food agencies to provide individuals and families in need with fresh, healthy, local produce."³⁰⁰ Thanks to this program, over 25 tons of fresh produce have been donated to emergency food providers since 1995.

Both graduate students and city officials have recognized the programmatic success and the popularity of urban agriculture initiatives in Portland and have taken steps to improve access to gardening opportunities. In 2005, students in the Master of Urban and Regional Planning program at Portland State University prepared a report titled "The Diggable City: Making Urban Agriculture a Planning Priority" for the City Council. The students sought to inventory "vacant, publicly-owned land in the Portland area, and to start a conversation about how that land might be used to support urban agriculture practices."³⁰¹ Then, in 2009, the Portland City Commissioner asked Oregon Solutions³⁰² to assess the potential to expand community gardening and food growing in the city.³⁰³ The goal of the assessment was "to increase community gardening opportunities in the city, thereby better meeting the recent increase in demand for community gardens, while capturing the current public attention on environmental and community sustainability, food security, and public health."³⁰⁴ Through this assessment, interested parties across the city met and joined efforts to reduce the extensive garden waiting list by 50%, which, by 2009, had grown to 1,400 people.³⁰⁵ As a result of the assessment, Oregon Solutions and

the Portland Community Gardens announced a Declaration of Cooperation on June 2, 2010.³⁰⁶ Numerous organizations and city departments signed the Declaration and pledged monetary, in-kind, and programmatic support to revitalize, improve, and expand community gardening and urban agriculture in Portland.³⁰⁷

CODE STATUS

While Portland has urban agriculture programs in place, it has recently been looking to revise and improve its policies. Much of this revision began with the city's 2009 assessment of its community gardening practices. As a next step, Portland is currently updating its zoning code to "establish zoning code regulations for urban food production and distribution activities that support Portlanders' access to healthy food, while ensuring that surrounding neighborhoods are protected from impacts such as noise, traffic, and pollutants."³⁰⁸ No drafts have been published yet, as Portland is in the very early stages of this process.

URBAN AGRICULTURE IN PORTLAND

As discussed above, Portland has an established program for community gardens, and it is currently revising its zoning code to address urban agriculture. For several decades, Portland has maintained a well-established municipal program for community gardens. The previously described Portland Community Gardens Program provides guidance, if not official zoning code regulations, on developing community gardens.³⁰⁹ A prospective gardener must meet nine requirements before participating in the program. First, an aspiring gardener must demonstrate a need for the garden and neighborhood support; this is usually done through a petition. Second, the gardener must consider parking and must ensure that participant parking does not adversely affect the neighborhood. Third, ownership of the garden or an agreement that allows use of the property for ten years must be in place. Fourth, the lot must be big enough for 15 or more garden plots and must be graded to assure drainage, but, at the same time, it must be accessible and "allow participation from a diverse group of citizens including, seniors, children, and persons with physical challenges."³¹⁰ Fifth, the garden must be located in a safe place that allows a large amount of visibility – preferably in a neighborhood. Fencing must enclose the garden, protecting it from "most theft, illegal dumping, roaming animals, vehicles, and other intrusions."³¹¹ Sixth, the garden must have water supplied by the city, ensuring adequate supply for the entire garden. Hose bibs must be provided so that a 50-foot hose would reach every plot from an outlet. Seventh, the soil on the property must be free from any contaminants and hazardous material. Gardeners are encouraged "to be good stewards of the soil," and CGP recommends organic practices and cover crops during the winter.³¹² Eighth, the land should have ample natural light. And finally, CGP provides information about various resources that could help fund the community garden, including

the American Community Gardening Association, the Oregon Sustainable Agriculture Land Trust, the Community Garden Start-Up Guide, and the Office of Neighborhood Involvement.

The benefits of the municipal-run system are many. David Hess highlights two in particular. Through interviews with Leslie Pohl-Kosbau, director of CGP, Hess discovered that the public community gardens system can better handle insurance issues and are well situated to protect land from development.³¹³ Regarding insurance, Pohl-Kosbau said, “for a private organization, it would be millions of dollars to insure all these sites. We are self-insured, and our volunteers are somewhat protected under our program.”³¹⁴ With respect to the problems with land tenure for gardens that are held on private land,³¹⁵ Pohl-Kosbau said, “In Portland, we have an urban growth boundary, so people want to develop every piece of land. It is difficult to keep our green spaces.”³¹⁶ Community gardens on municipally-owned land are more secure from developers.

In addition to community gardens, the Department of Parks and Recreation also recommends home gardening. The Department encourages front-yard plantings and even allows growing in the parking strip or planting strip, which is part of the public right of way.³¹⁷

Even with such a well-established and highly popular municipal community garden program, Portland is seeking ways to improve and expand its urban agriculture practices. Portland is currently revising its zoning code through the Urban Food Zoning Code Update Project (the “Project”). The existing code only makes the briefest mention of agriculture and does not address individual or community gardens.³¹⁸ The revisions proposed by the Urban Food Zoning Code Update Project Advisory Group (“PAG”) seek to change that. The PAG has identified five topic areas related to urban food production and distribution for the Project to address: farmers’ markets, community gardens, urban food production, community food distribution points, and animals and bees.³¹⁹

The Project is scheduled to last throughout 2011 and into 2012. In early 2011, Portland held four Project Advisory Group meetings to discuss the five topic areas related to urban food production and distribution. Portland identified key issues related to each of the five topic areas as well as general observations. In general, the PAG noted that Portland needed “more flexibility to grow and sell produce in more zones, especially residential and commercial.”³²⁰ Additional general notes included the observation that the current lack of definitions in the zoning code could lead to uncertainty and, in some cases, barriers to beneficial activity and the conditional use reviews necessary in some districts may be prohibitively expensive for many urban food and distribution activities.³²¹

In regards to urban food production, Portland has identified many issues to address as it continues the zoning code revision process. While stating that food for personal consumption should be allowed to be grown anywhere, the PAG notes that where sales are

involved, more analysis will need to be done to determine “the appropriate scale, location, and operational restrictions.”³²² The PAG also noted that the “impact of production and sales such as traffic, noise, and parking, and potential health issues, such as exposure to pesticides and fertilizers, need to be considered.”³²³

Concerns addressed by the PAG regarding community gardens include definitional concerns and access to the gardens. The PAG noted the need for careful consideration in how it defines “community.” In other cities and programs, “community gardens can include social programs, educational components, and entrepreneurial elements instead of, or in addition to, growing food only for personal consumption.”³²⁴ Thus, much can be encompassed in the term. Access to the gardens is also an issue the PAG wants to consider as it notes that “some community gardens in low-income neighborhoods are cultivated by non-area residents, making it more difficult for these lower-income residents to experience the benefits of the community garden in the neighborhood.”³²⁵

Regarding farmers’ markets, the PAG noted the need for a flexible and cost-conscious approach. First, “the need to develop regulations for farmers markets to ensure the largest range of possibilities in the widest range of places without disturbing neighbors and businesses in the surrounding area” was a key issue identified by the PAG.³²⁶ While balancing the interests of the farmers’ markets with those of the surrounding area, the PAG also noted the need to keep cost in mind. Conditional use permits which are often required for farmers’ markets can be expensive and a difficult process to navigate thereby “creating barriers for farmers markets that tend to operate as non-profits with limited funds.”³²⁷

For community food distribution sites, the PAG identified clarification and traffic as the main issues regarding this topic area. The PAG noted that current regulations do not address community food distribution sites, which would include community supported agriculture pickup and drop sites.³²⁸ Although there is general support for small-scale food distribution sites, the PAG noted it must be considerate of traffic concerns associated with the sites and that more analysis will need to be conducted before drafting regulations.³²⁹

Finally, even though Portland contracts with the larger county to administer and enforce regulations regarding animals and bees, a few key issues were identified.³³⁰ Generally, the PAG noted that clarification in the regulations regarding animals and bees is needed. The PAG noted that more consideration will need to be given to the number of animals allowed and the permits and licenses for keeping animals and bees.

Following the PAG’s identification of these key issues, the next step for the group is to publish the “Urban Food Zoning Code Concept Report.”³³¹ This report is scheduled to be published in June 2011 and “will identify issues and possible solutions at the concept level (without zoning code language) and will include a questionnaire on the concepts presented.”³³² Opportunities for comment and meetings regarding the report will be

available throughout July 2011 as Portland continues to work towards zoning code revisions.³³³

SAN FRANCISCO, CALIFORNIA

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

San Francisco, California encompasses 46.7 square miles and has an estimated population of 805,235 people.³³⁴ As one of the ten densest cities in the United States, San Francisco has around 16,633 people per square mile.³³⁵ San Francisco was ranked 19th in “Local Food & Agriculture” and 2nd overall in the 2008 SustainLane city sustainability rankings.³³⁶ Like many other cities in the United States, interest in urban agriculture has been growing in recent years and has now taken the form of municipal involvement and action.

The main push for urban agriculture practices in San Francisco started with non-profit and grassroots organizations. One such organization is the San Francisco Urban Agriculture Alliance. The Alliance “promotes the growing of food within San Francisco...through advocacy, education, and grassroots action.”³³⁷ Other organizations work on the ground to create small-scale urban farms. For example, Little City Gardens, started in 2007, has become “an experiment in the economic viability of small-scale urban market-gardening.”³³⁸ Another organization, Hayes Valley Farm, established a 2.2-acre non-profit, community-run farm and urban agriculture project.³³⁹ These organizations, and many others, have influenced government action.

In 2009, former Mayor Gavin Newsom announced The San Francisco Executive Directive 09-03 regarding “Healthy and Sustainable Food for San Francisco.”³⁴⁰ The document directed “all City departments to carry out implementing actions consistent with the goal of fostering local food production in the City.”³⁴¹ As a result of this directive, San Francisco has worked to incorporate urban agriculture more explicitly into its zoning code.

CODE STATUS

San Francisco recently passed an urban agriculture ordinance. The ordinance was unanimously supported by both the San Francisco Planning Commission and the Land Use Committee of the Board of Supervisors.³⁴² Mayor Ed Lee signed it into law April 20, 2011.³⁴³

URBAN AGRICULTURE IN SAN FRANCISCO

The new urban agriculture zoning ordinance aimed to consolidate and clarify San Francisco’s zoning code by creating a new use category, Urban Agriculture.³⁴⁴ The ordinance divides Urban Agriculture into three parts, Neighborhood Agriculture, Large-Scale Urban Agriculture, and Water Conservation.³⁴⁵

“Neighborhood Agriculture” is defined as “a use that occupies less than one acre for the production of food or horticultural crops to be harvested, sold, or donated...the use

includes, but is not limited to, home, kitchen, and roof gardens.”³⁴⁶ Examples of neighborhood agriculture uses also include “community gardens, community supported-agriculture, market gardens, and private farms.”³⁴⁷ While the amendments regarding the Neighborhood Agriculture sub-use category are limited, they do address sales and setback, equipment, and aesthetic requirements.

The Neighborhood Agriculture sub-use category allows for the sale and donation of “fresh food and/or horticultural products grown on-site, whether the property is vacant or improved,” but prohibits sales from occurring within a dwelling unit.³⁴⁸ The sale of value-added products is allowed in all districts except residential districts, as long as the primary ingredients are grown and produced on-site.³⁴⁹ Permitted sales must occur between 6 a.m. and 8 p.m.³⁵⁰

Various setback, equipment, and aesthetic requirements are also imposed in the Neighborhood Agriculture sub-use category. Compost areas must be at least three feet from property lines.³⁵¹ In general, mechanical farm equipment is not allowed in residential districts except for the initial preparation of land for agriculture use.³⁵² However, landscaping equipment designed for home use is permitted.³⁵³ The code amendments address aesthetics in two capacities. First, where farm equipment is used and kept on the property, it must be “enclosed or otherwise screened from sight.”³⁵⁴ Second, “if the farmed area is enclosed by fencing, the fencing must be a) wood fencing, b) ornamental fencing..., or c) chain link or woven wire fencing if over half of the area that borders a public right-of-way will be covered by plant material or other vegetative screening within three years of fence installation.”³⁵⁵

The Large-Scale Urban Agriculture sub-use category essentially includes those uses that do not constitute Neighborhood Agriculture. The use is defined as “the use of land for the production of food or horticultural crops to be harvested, sold, or donated that occur: 1) on a plot of land one acre or larger or 2) on smaller parcels that cannot meet the physical and operational standards for Neighborhood Agriculture.”³⁵⁶

The Water Conservation section of the Urban Agriculture use category applies to any plot of land that exceeds 1,000 square feet and is established for Neighborhood Agriculture or Large-Scale Urban Agriculture.³⁵⁷ Those plots must comply with the applicable water use requirements set forth elsewhere in San Francisco’s code.

The ordinance amendments provide for Neighborhood Agriculture and Large-Scale Urban Agriculture uses in neighborhood commercial districts,³⁵⁸ but Large-Scale Urban Agriculture requires conditional use authorization.³⁵⁹ In almost all residential, commercial, and industrial use districts, Neighborhood Agriculture is permitted and Large-Scale Urban Agriculture is allowed under a conditional permit.³⁶⁰

Although not addressed in the ordinance amendments, existing ordinances will continue to impact urban agriculture. For example, the current zoning code calls for a \$300 change of use fee that potential gardeners would have to pay before they could begin any work on a garden in any of the Urban Agriculture sub-use categories.³⁶¹ The fee troubled the public and led to public participation in the legislative process through letter and email comments.

Overall, public comments to the Planning Commission regarding the ordinance amendments were largely supportive.³⁶² The majority of the public comments published by the San Francisco Planning Commission aligned with the Alliance position which was supportive, subject to a few concerns. The Alliance recommended removing fencing requirements, removing or waiving “change of use” permit fees for urban agriculture projects, and supported sales of value-added products and pooled produce on site.³⁶³ Without these revisions, the Alliance contended that starting community gardens would be too expensive and individuals and organizations would be deterred from growing. The Alliance also provided a petition signed by 251 supporters inside San Francisco and 182 supporters from outside San Francisco.³⁶⁴ The Planning Commission addressed the fencing concerns by adding a provision, discussed above, that permits chain link fencing with a vegetative screen.³⁶⁵ The change of use fees were not addressed in the final ordinance.

Those less supportive of the proposed ordinance raised other issues. Commentators requested that fencing requirements remain to protect aesthetic appeal and noted the potential traffic and parking problems that arise from commercial sales at the gardens.³⁶⁶

The ordinance does not address liability, enforcement issues, animal husbandry, or what types of vegetables, nuts, or fruits can be grown.

SEATTLE, WASHINGTON

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Seattle, Washington sits in the extreme Northwest corner of the continental United States and is home to an estimated 602,000 residents.³⁶⁷ Consistently rated as one of the “greenest” cities in the United States, Seattle was ranked 9th in “Local Food & Agriculture” 3rd overall in the 2008 SustainLane city sustainability rankings.³⁶⁸

Seattle has long-established urban agriculture practices and recently adopted changes to its zoning code to reflect its commitment to urban agriculture. A report prepared by students in the University of Washington certificate program in Environmental Law and Regulation notes that “few would dispute that Seattle is a leader in urban agriculture and particularly in community gardening.”³⁶⁹ This statement is supported by a wealth of information on local organizations, governmental action and well-established urban agricultural programs.

One such program is the P-Patch Community Garden Program, started in 1973.³⁷⁰ Managed by the Seattle Department of Neighborhoods, the P-Patch Program oversees 75 community gardens.³⁷¹ Participation in the program requires a \$25 application fee and an additional \$12 per every 10 square foot area gardened.³⁷² Additional requirements for participation include organic gardening practices, consistent care and upkeep of the garden plot, and 8 hours of work contributed to the whole garden (not including one’s own plot).³⁷³ The program has been very successful and has waitlists of people wishing to participate. In an effort to reduce these waitlists, P-Patch recently implemented a maximum square foot limit on garden patches, allowing more gardeners to participate.³⁷⁴

Other municipal urban agriculture efforts include the Local Food Action Initiative, enacted by the Seattle City Council in 2008.³⁷⁵ The goals of the Initiative “include improving the local food system through advancing the City of Seattle’s interrelated goals of race and social justice, environmental sustainability, economic development, and emergency readiness.”³⁷⁶

To this end, the city announced, “2010: The Year of Urban Agriculture” campaign. In 2010, the Seattle City Council and community partners pursued multiple initiatives, “including opening a new urban food bank farm, developing additional community gardens through the Parks Levy, and considering new land use codes that support urban agriculture.”³⁷⁷

CODE STATUS

As part of the “2010: The Year of Urban Agriculture campaign,” the Seattle City Council and the Mayor announced approval of urban farm and community garden legislation intended to provide easier access to locally grown food.³⁷⁸ The legislation,

which updated the City's Land Use Code governing urban agriculture uses, took effect on September 23, 2010.³⁷⁹

URBAN AGRICULTURE IN SEATTLE

Seattle's 2010 revisions to its zoning code included language addressing urban farms, animals, community gardens, and other issues relating to urban agriculture such as greenhouses and parking requirements.

In the 2010 revisions, Seattle added a new "Urban Farms" section.³⁸⁰ This section defines "urban farm" as "a use in which plants are grown for sale of the plants or their products, and in which the plants or their products are sold at the lot where they are grown, off site, or both, and in which no other items are sold. Examples may include flower and vegetable raising, orchards and vineyards."³⁸¹ The code provides certain general restrictions on equipment, sales, location, size, and signage. On an urban farm, only mechanical equipment designed for household use and a maximum of two motor vehicles may be used for farm operations.³⁸² The code permits retail sales and public use of the farm, but places restrictions on the time of day sales may be conducted as well as the number of on-site commercial deliveries and pickups.³⁸³ Additionally, where outdoor sales are conducted, there are limits to the size of the sale area relative to the size of the lot.³⁸⁴ The code also requires the urban farm to be located on the same lot as the principal use or on a lot within 800 feet of the lot where the principal use is located.³⁸⁵ The code does allow for accessory structures to be built provided that the total floor area does not exceed 1,000 square feet and the height does not exceed 12 feet including any pitched roof.³⁸⁶ Finally, one identification sign not to exceed 64 square inches is allowed.³⁸⁷

Urban farms are permitted uses in all residential zones. In multifamily zones, urban farms are permitted so long as they do not have more than 4,000 square feet of planting area.³⁸⁸ Urban farms are expressly permitted in all commercial and industrial zone districts with the caveat that, within designated manufacturing and industrial centers, urban farms are allowed only on rooftops and/or as vertical farming.³⁸⁹

An urban farm that has more than 4,000 square feet of planting area may be allowed by an administrative conditional use permit.³⁹⁰ The city may approve, condition, or deny a conditional use permit on three main considerations. First, the applicant must submit a proposed urban farm management plan. This plan must include, without limitation:

a site plan; description of the type of equipment necessary or intended for use in each season and the frequency and duration of anticipated use; disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for; disclosure of whether the operation of the farm would involve 750 square feet or more of land-

disturbing activity, or would otherwise require drainage approval; and a proposed sediment and erosion control plan.³⁹¹

Second, the city will consider potential impacts and mitigation, including consideration of water and soil quality, the impacts of irrigation run-off and sediment and erosion control measures, traffic and parking, visual impacts and screening, noise and odor, agricultural chemicals, and mechanical equipment.³⁹² Finally, the code demands that in all zones, “no odors or fumes from an urban farm shall be allowed to escape into the open air in such amounts as to be detrimental to the health of any individuals or the public” or as to create a public nuisance at a distance of no more than 200 feet from an urban farm.³⁹³

Seattle also amended its code section concerning the keeping of animals.³⁹⁴ The code provides that “the keeping of small animals, farm animals, domestic fowl, and bees is permitted outright in all zones as an accessory use to any principal use permitted outright or to a permitted conditional use.”³⁹⁵ The code allows up to three small animals to be kept as an accessory to each business establishment, other than an urban farm. In single-family zones, up to four small animals are permitted given that the lot is at least 20,000 square feet with one additional small animal permitted for each additional 5,000 square feet of lot area.³⁹⁶ All accessory structures, including kennels, for four or more animals must be at least 10 feet from any other lot in a residential zone.³⁹⁷

In addition to small animals, up to eight domestic fowl may be kept.³⁹⁸ However, roosters may not be kept, and structures housing domestic fowl must be located at least 10 feet away from any structure that includes a dwelling unit on an adjacent lot.³⁹⁹ On lots that are greater than 10,000 square feet and include either a community garden or an urban farm, one additional fowl is permitted for every 1,000 square feet of lot area over 10,000 square feet in community garden or urban farm use.⁴⁰⁰

Farm animals including “cows, horses, sheep, and other similar farm animals” are allowed on lots of at least 20,000 square feet.⁴⁰¹ Only one farm animal for every 10,000 square feet is permitted, and structures housing the animals must be kept at least 50 feet from any other lot in a residential zone.⁴⁰²

The amended animal code section also addresses beekeeping. Beekeeping is permitted outright when it is registered with the State Department of Agriculture.⁴⁰³ No more than four hives are allowed, each with only one swarm, on lots less than 10,000 square feet.⁴⁰⁴ In general, hives may not be located within 25 feet of any lot lines except when raised to a certain height off the ground and behind a sufficient fence or hedge.⁴⁰⁵

The code deals with animal husbandry separately. The code defines animal husbandry as a “use in which animals are reared or kept in order to sell the animals or their products, such as meat, fur or eggs...Examples of animal husbandry uses are poultry farms and rabbitries.”⁴⁰⁶ Animal husbandry is allowed in more limited areas than the keeping of

small animals. It is permitted as an accessory use in most commercial zones and is expressly permitted in one commercial zone, but is expressly prohibited in all industrial zones.⁴⁰⁷

Seattle also added a community gardens section to its zoning code.⁴⁰⁸ The section defines community garden as “a use in which land managed by a public or nonprofit organization, or a group of individuals, is used to grow plants and harvest food or ornamental crops from them for donation or for use by those cultivating the land and their households.”⁴⁰⁹ The code’s community garden section also addresses structures built within the garden, requiring that they not exceed 1,000 square feet or be taller than 12 feet high, including any pitched roof.⁴¹⁰

Aside from the main urban agriculture categories addressed by Seattle’s code, the 2010 revisions also addressed greenhouses and parking. Seattle’s code allows for greenhouses. The code defines a “greenhouse” as “a structure or portion of a structure, made primarily of glass or other translucent material, for which the primary purpose is the cultivation or protection of plants.”⁴¹¹ Rooftop greenhouses dedicated to food production are allowed to exceed certain height restrictions, provided that the additional height does not exceed 50% of the roof area and complies with setback restrictions.⁴¹² Greenhouses are also subject to setback requirements based on the abutting property and the size of the greenhouse.⁴¹³ Seattle’s code expressly provides that no parking is required for urban farms or community gardens in residential areas.⁴¹⁴

Seattle’s urban agriculture provisions are relatively comprehensive. The revisions to the zoning code do not address access to water, but the P-Patch Program notes that for community gardens within that program, water is provided to gardeners as part of their yearly fee.⁴¹⁵ The code also does not address liability issues or how the urban agriculture requirements will be enforced.

WASHINGTON, D.C.

BACKGROUND: REGIONAL, POLITICAL, AND HISTORICAL CONTEXT

Washington, D.C. encompasses just over 61 square miles and has a population of about 600,000 residents. Washington's population increased by approximately 5% from 2000 to 2009.⁴¹⁶ The city was ranked 5th in "Local Food & Agriculture" and 15th overall in the 2008 SustainLane city sustainability rankings.⁴¹⁷

Because it is the Nation's capitol, Washington's urban agriculture movement has received national support – First Lady Michelle Obama is working to promote sustainable food systems both in the city and throughout the country, and has created a 1,100 square foot garden on the White House's South Lawn.⁴¹⁸ Additionally, the U.S. Department of Agriculture began "The People's Garden Initiative," where USDA employees are asked to create community gardens at USDA facilities across the country or help communities create gardens.⁴¹⁹

The urban agriculture movement in Washington, however, is driven primarily by local community groups. Although the city is supportive of these organizations and recognizes the benefits of urban agriculture, it has not yet taken significant steps to promote urban agriculture through policies, initiatives, or regulations.⁴²⁰

Washington is currently working on a multi-year effort to update its entire zoning code.⁴²¹ The city describes this effort as a "major overhaul," and one of the goals of the revision is to make the code reflect sustainable policies.⁴²² The Office of Planning commissioned a diagnostic study of the sustainability of the existing zoning code in 2008. This study included a section examining food production and community health. It noted the lack of direct support for urban agriculture in Washington's zoning code and made extensive recommendations for improvement, including permitting urban agriculture uses in more zoning districts and defining the terms the code uses. The study noted that to define and permit these uses explicitly is the best way to avoid regulatory barriers and promote urban agriculture.⁴²³ The Zoning Review Project Manager submitted these recommendations to the D.C. Zoning Commission, but they have not yet been implemented.⁴²⁴

CODE STATUS

The zoning code does not use the term "urban agriculture." It does permit community gardening, "farm or truck gardens," and "greenhouses and horticultural nurseries" in some districts, but does not define or explain these uses.

URBAN AGRICULTURE IN WASHINGTON, D.C.

Although urban agriculture practices are addressed only to a very limited extent in the zoning code, urban agriculture is present in Washington as the city is home to a number of gardens and community gardening organizations. One of these organizations, the Neighborhood Farm Initiative, released a draft Community Garden Census (“Census”). The Census reports that Washington has 36 community gardens, almost 27 acres under cultivation, and almost 2,000 community gardeners.⁴²⁵ The Census also states that there is a high demand for plots, as a vast majority of community gardens in the city have waiting lists of aspiring gardeners.⁴²⁶

Washington’s zoning code explicitly allows, but does not define, “farm or truck garden,” “greenhouse,” “horticultural nurseries,” or “community garden.”⁴²⁷ A “farm or truck garden” is a permitted use in residential districts R-1 through R-5.⁴²⁸ In the R-5 district, “greenhouses” or “horticultural nurseries” are also permitted uses.⁴²⁹ In the waterfront district, non-permanent produce markets and “community gardens” operated by community organizations or the city and are permitted.⁴³⁰ The code does not address signage, fences, liability, or parking requirements for community gardens in the waterfront district or community gardening in other districts.

Although Washington has not initiated its own program, the city supports the concept of urban agriculture and the community groups involved. Washington briefly mentions support for urban agriculture in its Comprehensive Plans⁴³¹ and has taken the first steps to change its zoning code to promote urban agriculture. As the code stands, urban gardeners do not face substantial barriers to urban agriculture. However, a more developed code with explicit permissions and definitions would provide clarity for the progression of the urban agriculture movement.

ADDITIONAL LINKS AND INFORMATION

GENERAL LINKS

URBAN AGRICULTURE RESOURCES & LINKS

http://www.collectiveroots.org/initiatives/foodsystem/urban_agriculture/resources

COLORADO HEALTHY FOOD INITIATIVES: TOOLBOX

<http://livewellcolorado.org/resource-toolbox/other-resources/healthy-food-initiatives/healthy-food-initiatives?page=4>

COMMUNITY FOOD SECURITY COALITION

<http://www.foodsecurity.org/links.html>

COMMUNITY GARDENING ACTION PLAN

http://www.eatbettermovemore.org/sa/enact/neighborhood/community_garden.php

EPA GUIDANCE ON SMART GROWTH

<http://www.epa.gov/smartgrowth/publications.htm#comm>

EXAMPLE OF COMMUNITY GARDEN ORDINANCE: GALESBURG, IL

<http://www.ci.galesburg.il.us/mayorcouncil/2010/050310/Ordinances/Community%20Garden%20ord.pdf>

GUIDANCE FOR COMMUNITY GARDEN ORDINANCE

http://www.communitygarden.org/docs/cg_ordinances.pdf

SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

<http://www.sare.org/>

URBAN AGRICULTURE PROJECT – FOOD SYSTEM PLANNING, POLICY, ZONING

http://www.urbanagricultureproject.com/?page_id=356

URBAN FARM MAGAZINE

<http://www.hobbyfarms.com/urban-farm/urban-farm.aspx>

CITY SPECIFIC LINKS

ATLANTA

COMMUNITY RESOURCES

<http://www.georgiaorganics.org/Home.aspx>

CITY OF ATLANTA OFFICE OF SUSTAINABILITY

<http://www.atlantaga.gov/mayor/sustainability.aspx>

BALTIMORE

COMMUNITY RESOURCES

<http://www.parksandpeople.org/greening/resource-network/community-partners--resources/>

CONSERVATION EASEMENT RESOURCES

<http://www.dnr.maryland.gov/met/resources.asp>

URBAN AGRICULTURE PROJECTS IN BALTIMORE

<http://baltimoregreenworks.com/resource-type/food-2/>

UNIVERSITY OF MARYLAND AGRICULTURE LINKS

<http://mredc.umd.edu/hotlistUrbanAg.html>

BOSTON

AMERICAN PLANNING ASSOCIATION, MASSACHUSETTS CHAPTER

<http://www.apa-ma.org/>

BOSTON NATURAL AREAS NETWORK

<http://www.bostonnatural.org/index.htm>

METROFUTURE

<http://www.metrofuture.org/>

METROPOLITAN AREA PLANNING COUNCIL

<http://mapc.org/smart-growth/land-use#projects>

THE FOOD PROJECT

<http://thefoodproject.org/>

THE TELLUS INSTITUTE

<http://www.tellus.org/index.php>

CLEVELAND

CLEVELAND ECO VILLAGE

<http://www.earthfuture.com/economy/sei/sei27.asp>

GREEN CITY BLUE LAKE

<http://www.gcbl.org/>

CHICAGO

ADVOCATES FOR URBAN AGRICULTURE (“AUA”)

<http://auachicago.wordpress.com/2011/01/20/urban-agriculture-zoning-in-chicago-navigating-the-rules/>

CHICAGO FOOD POLICY ADVISORY COUNCIL (“CFPAC”)

<http://www.chicagofoodpolicy.org/>

URBAN FOOD POLICY - CHICAGO

<http://www.urbanfoodpolicy.com/2011/01/chicagos-urban-agriculture-zoning.html>

DENVER

DENVER URBAN GARDENS

<http://dug.org/>

DENVER URBAN HOMESTEADING

<http://www.denverurbanhomesteading.com/>

FEED DENVER

<http://www.feeddenver.com/index.html>

GROW LOCAL COLORADO

<http://www.growlocalcolorado.org/>

THE URBAN FARM AT STAPLETON

<http://theurbanfarm.org/theurbanfarm/>

DETROIT

ARTICLE: “THE GREENING OF DETROIT BUYS LAND FOR MARKET GARDEN”

<http://www.crainsdetroit.com/article/20100323/EMAIL01/303239998#>

THE GREENING OF DETROIT

http://www.greeningofdetroit.com/3_1_featured_projects.php

SUPPORTING URBAN AGRICULTURE IN DETROIT

http://sitemaker.umich.edu/urpoutreachreports/environment__land_use_e_/da.data/88429/ReportFile/supportingurbanag.pdf

NEW YORK

NEW YORK RESTORATION PROJECT

<http://www.nyrp.org/>

NEW YORK CITY DEPARTMENT OF PARKS & RECREATION, COMMUNITY GARDENS

http://www.nycgovparks.org/sub_about/parks_history/gardens/gardens.html

NEW YORK CITY DEPARTMENT OF PARKS & RECREATION, THE COMMUNITY GARDEN MOVEMENT:
GREEN GUERRILLAS GAIN GROUND

http://www.nycgovparks.org/sub_about/parks_history/gardens/community.html

“FARM GARDENS: PLANTING THE SEED”

http://www.nycgovparks.org/sub_about/parks_history/gardens/farm.html

“TALES OF GARDENING GREATNESS”

http://www.nycgovparks.org/sub_about/parks_history/gardens/highlights.html

JUST FOOD, NYC

<http://www.justfood.org/>

GROW NYC

<http://www.grownyc.org/>

PHILADELPHIA

“PHILADELPHIA’S URBAN-FARMING ROOTS GO DEEP—AND ARE SPREADING WIDE”

<http://www.grist.org/article/food-2010-09-21-philadelphias-urban-farming-roots-go-deep-and-are-spreading>

PENNSYLVANIA HORTICULTURE SOCIETY

<http://www.pennsylvaniahorticulturalsociety.org/phlgreen/about.html>

NEIGHBORHOOD GARDENS ASSOCIATION/A PHILADELPHIA LAND TRUST

<http://www.ngalandtrust.org/>

“THE HISTORY OF URBAN FARMING IN PHILADELPHIA”

<http://phillyecocity.wordpress.com/2010/09/11/the-history-of-urban-farming-in-philadelphia/>

“URBAN AGRICULTURE IN THE ZONING CODE—GETTING SERIOUS Y’ALL”

<http://marathonfarm.com/2011/01/29/urban-agriculture-in-the-zoning-code-get-serious-yall/>

“UNANIMOUS COUNCIL VOTE SAVES MANATAWNA FARM”

http://www.montgomerynews.com/articles/2010/11/02/roxborough_review/news/doc4cd045240ce26344555478.txt

THE PHILADELPHIA CODE

[http://www.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/thephiladelphia_code?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:philadelphia_pa](http://www.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/thephiladelphia_code?f=templates$fn=default.htm$3.0$vid=amlegal:philadelphia_pa)

ZONING MATTERS: THE OFFICIAL WEBSITE OF THE PHILADELPHIA ZONING CODE COMMISSION

<http://www.zoningmatters.org/>

PORTLAND

PORTLAND COMMUNITY GARDEN PROGRAM, PORTLAND PARKS AND RECREATION

<http://www.portlandonline.com/parks/index.cfm?c=39846>

PRODUCE FOR PEOPLE, PORTLAND PARKS AND RECREATION

<http://www.portlandonline.com/parks/index.cfm?c=39846&a=201278>

“CASE STUDIES OF COMMUNITY GARDENS AND URBAN AGRICULTURE: PORTLAND OREGON,” BY DAVID HESS

<http://www.davidjhess.org/PortlandCG.pdf>

“COMMUNITY GARDENS IN PORTLAND, OREGON,” SALLY ALBRIGHT

http://www.associatedcontent.com/article/443954/community_gardens_in_portland_oregon.html

SAN FRANCISCO

HAYES VALLEY FARM

<http://www.hayesvalleyfarm.com/>

URBAN AGRICULTURE IN THE BAY AREA

<http://www.sfgro.org/ua.htm>

SAN FRANCISCO URBAN AGRICULTURE ALLIANCE

<http://www.sfuaa.org/>

LEGISLATIVE DIGEST

http://www.sfuaa.org/uploads/4/8/9/3/4893022/sf_urban_agriculture_zoning_proposal_urban_digest.pdf

THE FINAL RECOMMENDATIONS OF THE SAN FRANCISCO URBAN-RURAL ROUNDTABLE

http://www.sfgov3.org/ftp/uploadedfiles/sffood/policy_reports/FinalURRRecommendations0709.pdf

SEATTLE

SEATTLE URBAN FARM COMPANY

<http://www.seattleurbanfarmco.com/>

URBAN AGRICULTURE IN SEATTLE: POLICY & BARRIERS

<http://www.chicagofoodpolicy.org/Urban%20Agriculture%20in%20Seattle%20Policy%20and%20Barriers.pdf>

ORDINANCE 123378

http://www.seattle.gov/DPD/cms/groups/pan/@pan/@plan/@urbanagriculture/documents/web_informational/dpdp020184.pdf

2010: THE YEAR OF URBAN AGRICULTURE

<http://www.seattle.gov/urbanagriculture/>

DEPARTMENT OF PLANNING AND DEVELOPMENT, URBAN AGRICULTURE

<http://www.seattle.gov/DPD/Planning/UrbanAgriculture/Overview/default.asp>

SEATTLE TILTH

<http://seattletilth.org/our-community/urbanagfoodgroups>

“SEATTLE’S NEW URBAN AG MODELS ARE SPROUTING IN FRIENDLY SOIL”

<http://www.grist.org/article/food-seattles-new-urban-ag-models-are-sprouting-in-friendly-soil>

“SEATTLE’S NEW URBAN AG MODELS ARE SPROUTING IN FRIENDLY SOIL: PART 2”

<http://www.grist.org/article/food-seattles-new-urban-ag-models-are-sprouting-in-friendly-soil/P2>

WASHINGTON D.C.

“PEOPLE’S GARDEN”

http://www.usda.gov/wps/portal/usda/usdahome?navid=PEOPLES_GARDEN

“SUSTAINABILITY PLANNING DIAGNOSIS FOR THE WASHINGTON, D.C. ZONING REVIEW”

<https://www.communicationsmgr.com/projects/1355/docs/Diagnosis%20Draft%2017.pdf>

“SUSTAINABILITY”

<http://dczoningupdate.org/sustainability.asp?area=sus>

PUBLIC HEARING REPORT FOR ZC #08-06-9

<https://www.communicationsmgr.com/projects/1355/docs/SustainabilityZCPHReport.pdf>

COMMUNITY GARDEN CENSUS 2010 REPORT

<http://fieldtoforknetwork.org/community-gardens/2010-report/>

SUMMARY OF CODE DEFINITIONS

COMMERCIAL GARDEN

Commercial Gardens allow for the propagation, processing, and storage of plant products for wholesale or retail sales. *Chicago, IL.*

Commercial Community Gardening is an individual or group of individuals growing and harvesting food crops and/or non-food, ornamental crops, such as flowers, for commercial sale. *Nashville, TN.*

COMMUNITY GARDEN

Community Gardens are limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity. *Baltimore, MD.*

Community Gardens are neighborhood-based developments that provide space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use. *Chicago, IL.*

Community Gardens are an area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or donation. *Cleveland, OH.*

Community Garden is a plot of ground managed and maintained by a group of individuals where herbs, fruits, flowers, or vegetables are cultivated, for personal or group use. *Minneapolis, MN.*

Community Garden is an area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops (e.g., flowers) for personal or group consumption, for donation, or for sale that is incidental in nature. *Philadelphia, PA.*

Community Garden is a use in which land managed by a public or nonprofit organization, or a group of individuals, is used to grow plants and harvest food or ornamental crops from them for donation or for use by those cultivating the land and their households. *Seattle, WA.*

MARKET OR COMMUNITY-SUPPORTED FARM

Market or Community-Supported Farm is an area managed and maintained by an individual or group of individuals to grow and harvest food crops or non-food crops (e.g., flowers) for sale or distribution that is not incidental in nature. *Philadelphia, PA.*

FARMERS MARKET

Farmers Market is a publicly or privately operated establishment where primarily agricultural products such as raw vegetables, fruits, syrups, herbs, flowers, plants, nuts or handcrafted items are sold. *Minneapolis, MN.*

GARDEN

Garden is the growing and cultivation of fruits, flowers, herbs, vegetables, and or/ornamental plants. *Denver, CO.*

MARKET GARDEN

Market Gardens are areas of land managed and maintained by an individual or group to grow and harvest food crops to be sold for profit. *Cleveland, OH.*

NON-COMMERCIAL COMMUNITY GARDENING

Non-Commercial Community Gardening is a group of individuals growing and harvesting food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption, or donation. *Nashville, TN.*

URBAN AGRICULTURE

Urban Agriculturalism is planning, policy, and design framework that focuses on integrating a wide range of sustainable food system elements into urban planning projects and neighborhoods. *Detroit, MI.*

URBAN FARM

Urban Farm as a use in which plants are grown for sale of the plants or their products, and in which the plants or their products are sold at the lot where they are grown, off site, or both, and in which no other items are sold. Examples may include flower and vegetable raising, orchards and vineyards. *Seattle, WA.*

Urban Farm is a commercial growing operation that is generally larger in scale than a community garden. *Minneapolis, MN.*

URBAN GARDEN

Urban Garden is a private or public facility for the growing and or selling of fruits, flowers, vegetables, or ornamental plants by one or more persons. *Denver, CO.*

Summary Chart

CURRENT CODE	Definition	URBAN AGRICULTURE (Including Urban Farm, Large Scale Urban Agriculture)			Permit	Sales	Definition	COMMUNITY GARDEN (Including Neighborhood Agriculture, Urban Garden, Non-commercial Community Gardening)			Permit	Sales	Definition	COMMERCIAL GARDEN/MARKET GARDEN (Including Commercial Community Gardening, Market or Community-Supported Farm)			Permit	Sales	OTHER
		Residential	Commercial	Industrial				Residential	Commercial	Industrial				Residential	Commercial	Industrial			
San Francisco, CA PASSED APRIL 2011	Use Category (includes Neighborhood Agriculture and Large-Scale Urban Agriculture)	N	Y	Y	Y ⁴	Y	Y	Y	Y	Y ⁴	Y								
Seattle, WA PASSED 2010		Y	Y	Y	Y (only for farms greater than 4,000 sq ft)	Y	Y												
Washington, DC						N			Y ⁵										

- Y¹ Permitted only in certain residential/commercial/industrial districts.
- Y² Permitted in Urban Garden Districts
- Y³ Special use requiring a permit.
- Y⁴ Gardens that are accessory uses on a site do not require permits. Those that are principal uses require a change of use permit.
- Y⁵ Waterfront district.
- N Not permitted.
- _ Not addressed in the zoning code.

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²⁶⁴ *Id.* at § 14-601 (1).

²⁶⁵ *Id.* at § 14-601(11)(a).

²⁶⁶ PHILADELPHIA, PA. ZONING CODE § 10-101 (8).

²⁶⁷ *Id.* § 10-112. Farm animals may also be kept "at a licensed slaughterhouse or commercial retailer of live animals sold to be killed for use as food; if the animal was purchased to be killed for food and is kept for no more than 24 hours; at a zoological park; at a veterinary hospital or clinic; at an animal shelter; at a circus or other licensed entertainment venue."

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²⁷¹ *Id.*

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²⁷³ *Id.* at § 14-601 (11)(c); 14-603 (13) (b) (.3).

²⁷⁴ *Id.* at § 14-603 (13) (b) (.1).

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²⁷⁷ A special permit is required in RSD-1, RSD-2, and RSD-3 districts. *Id.* Table 14-602-1.

²⁷⁸ CSFs are prohibited in CMX-4 and CMX-5 commercial, I-P industrial districts, and SP-ENT, SP-STA special purpose districts. Special exception approval is required for CSFs in SP-INS special purpose districts. A special permit is required in RSD-1, RSD-2, and RSD-3 districts. *Id.* Tables 14-602-2, 14-602-3, 14-602-4.

²⁷⁹ *Id.*

²⁸⁰ Philadelphia's New Zoning Code Zoning Code Commission Referral Draft v2. Bluelined Version. Prepared by Clarion Associates, LLC, Duncan Associates. § 14-601 (11) (d). February 2011. <http://www.zoningmatters.org/files/Referral%20Draft%20v2%20Feb%202011.BLUELINED.pdf>. Accessed on 2/13/11.

²⁸¹ *Id.*

²⁸² Horticulture nurseries and greenhouses are prohibited in I-P industrial districts. *Id.* Table 14-602-3.

²⁸³ *Id.* at § 14-603 (13) (a) (.1).

²⁸⁴ *Id.* at § 14-601 (11) (b).

²⁸⁵ *Id.* at § 14-601 (11) (c).

²⁸⁶ *Id.* at § 14-603 13 (a) (.2).

²⁸⁷ *Id.* at Table 14-802-1.

²⁸⁸ Summary of Comments Submitted to the Zoning Code Commission on the Consolidated Code – Referral Draft, Page 6. <http://www.zoningmatters.org/files/Referral%20Draft%20Comment%20Summary.Status.PUBLIC..pdf>. Accessed 2/15/11.

²⁸⁹ The comments suggested that CSFs be allowed in RSD-1, 2, and 3 residential districts. The committee noted that this suggestion is a work plan committee recommendation. They then suggested that CSFs be allowed as a special exception in CMS-4 and 5 commercial districts, I-P industrial districts, and SP-INS, SP-ENT, and SP-STA districts. The committee made the SP-INS suggestion to the work plan committee recommendation but noted it had previously considered the commercial and industrial district options. *Id.* at 7-8.

²⁹⁰ *Id.* at 9.

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²⁹² "Population by City Name," Oregon.com, http://web.oregon.com/towns/population_alpha.cfm. Accessed on 2/20/11.

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³⁰¹ “The Diggable City: Making Urban Agriculture a Planning Priority.” <http://www.diggablecity.org/index.html>. Accessed on 8/7/11.

³⁰² Oregon Solutions is a program of the National Policy Consensus Center at Portland State University. The program promotes “a new style of community governance, one based on the principals of collaboration, integration, and sustainability.” “About Us.” Oregon Solutions. <http://www.orsolutions.org/about.htm>. Accessed on 3/21/11.

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³⁰⁶ *Id.*

³⁰⁷ *Id.*

³⁰⁸ Urban Food Zoning Code Update. Bureau of Planning and Sustainability. <http://www.portlandonline.com/bps/index.cfm?c=53834>. Accessed on 2/19/11.

³⁰⁹ “Community Gardens Toolkit.” Portland Department of Parks and Recreation. Page 3. <http://www.portlandonline.com/parks/index.cfm?c=52699&a=282909>. Accessed on 2/19/11.

³¹⁰ *Id.* at 3.

³¹¹ *Id.* at 3.

³¹² *Id.* at 4.

³¹³ “Case Studies of Community Gardens and Urban Agriculture: Portland, Oregon.” David Hess. <http://www.davidjhess.org/PortlandCG.pdf>. (2005). Accessed on 2/20/11.

³¹⁴ *Id.* at p. 4

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<http://www.portlandonline.com/parks/index.cfm?c=52699&a=282909>. Accessed on 2/19/11.

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<http://www.portlandonline.com/bps/index.cfm?a=53501&c=34567>. Accessed on 2/19/11.

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³²⁰ Topic Areas Discussions: Key Issues. Julia Gisler, Steve Cohen, Amy Gilroy, Bureau of Planning and Sustainability. p. 2 <http://www.portlandonline.com/bps/index.cfm?a=347529&c=53995>. Accessed on 5/18/11.

³²¹ *Id.*

³²² *Id.*

³²³ *Id.*

³²⁴ *Id.* at p. 3

³²⁵ *Id.*

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.* at p. 4

³²⁹ *Id.*

³³⁰ *Id.*

³³¹ *Id.* at p. 1

³³² *Id.*

³³³ *Id.*

³³⁴ San Francisco, California. US Census Bureau Quick Facts.
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³³⁵ “2000 Census: US Municipalities Over 50,000 Ranked by 2000 Density.”
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³³⁷ San Francisco Urban Agriculture Alliance. <http://www.sfuaa.org/>. Accessed 2/21/11.

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³⁴⁰ Executive Directive 09-03. <http://civileats.com/wp-content/uploads/2009/07/Mayor-Newsom-Executive-Directive-on-Healthy-Sustainable-Food.pdf>. Accessed on 2/20/11.

³⁴¹ “Background Information,” Legislative Digest, File No. 101537. p. 313
<http://commissions.sfplanning.org/cpcpackets/2010.0571T.pdf>. Accessed on 2/20/11.

³⁴² San Francisco Urban Agriculture Alliance. <http://www.sfuaa.org/>. Accessed on 5/18/11.

See also. <http://sfuaa.us2.list-manage2.com/track/click?u=5c28800012d4af39c8840961d&id=19d0eab9e0&e=bda5989ad2>. Accessed on 6/1/11.

³⁴³ *Id.*

³⁴⁴ *Id.*

³⁴⁵ SAN FRANCISCO, CA. ORDINANCE 66-11. § 102.35(2011).

³⁴⁶ *Id.* at § 102.35(a)

³⁴⁷ *Id.*

³⁴⁸ *Id.*

³⁴⁹ *Id.* at § 102.35 (a) (6).

³⁵⁰ *Id.* at § 102.35 (a) (5).

³⁵¹ *Id.* at § 102.35 (a)(1).

³⁵² *Id.* at § 102.35 (a)(3).

³⁵³ *Id.*

³⁵⁴ *Id.* at § 102.35 (a)(4).

³⁵⁵ *Id.* at § 102.35 (a)(2).

³⁵⁶ *Id.* at § 102.35 (b).

³⁵⁷ *Id.* at § 102.35(c)(1).

³⁵⁸ *Id.* at § 703.2.

³⁵⁹ *Id.* § 703.2 (b)(1)(B)(iv).

³⁶⁰ *Id.* at §§ 710.69 et. seq.; Chinatown Residential Neighborhood Commercial District Zoning Control Table, .74A, .74B; §§ 831.74 et. seq. San Francisco, CA.

³⁶¹ “SF Passes Ordinance to Allow Urban Farms and Community Gardens to Expand Throughout the City,” by Eli Zigas and Dana Perls. Organic Consumers Association. http://www.organicconsumers.org/articles/article_22206.cfm. Accessed 2/21/11.

³⁶² Letters to Planning Commission. <http://commissions.sfplanning.org/cpcpackets/2010.0571T.pdf>. Accessed 2/21/11.

³⁶³ *Id.* pp. 374-375. Letter from Antonio Roman-Alcalá, Dana Perls, & Eli Zigas SFUAA Co-Coordiators. 2/7/11.

³⁶⁴ *Id.* pp. 378-388. “Zoning Proposal Petition” San Francisco Urban Agriculture Alliance. 2/7/2011.

³⁶⁵ § 102.35(a)(2).

³⁶⁶ *Id.* pp. 324-326. Letter from Robin Levine. 1/30/11. .

³⁶⁷ “Seattle-at-a-Glance.” http://www.seattle.gov/dpd/Research/Population_Demographics/Seattle_at_a_Glance/default.asp. Accessed 2/20/11.

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³⁶⁹ Leah Erickson, Kyle Griggs, Matt Maria, Hester Serebrin, *Urban Agriculture in Seattle: Policy & Barriers*. p. 5 <http://www.chicagofoodpolicy.org/Urban%20Agriculture%20in%20Seattle%20Policy%20and%20Barriers.pdf>. Accessed on 2/20/11.

³⁷⁰ “P-Patch Community Gardens—Growing Communities.” Department of Neighborhoods. <http://www.seattle.gov/neighborhoods/ppatch/>. Accessed 2/20/11.

³⁷¹ *Id.*

³⁷² “P-Patch Community Gardening Program.” Department of Neighborhoods. <http://www.seattle.gov/neighborhoods/ppatch/gardening.htm>. Accessed 2/20/11.

³⁷³ *Id.*

³⁷⁴ “P-Patch Community Gardens—Growing Communities.” Department of Neighborhoods. <http://www.seattle.gov/neighborhoods/ppatch/>. Accessed 2/20/11.

³⁷⁵ “City of Seattle launches ‘2010: The Year of Urban Agriculture’ campaign.” <http://www.seattle.gov/council/newsdetail.asp?ID=10500&Dept=28>. Accessed on 2/20/11.

³⁷⁶ *Id.*

³⁷⁷ *Id.*

³⁷⁸ Seattle City Council News Release. 8/16/10. <http://www.seattle.gov/council/newsdetail.asp?ID=10996&Dept=28>. Accessed on 2/20/11.

³⁷⁹ Urban Agriculture: Overview, Department of Planning and Development.
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³⁸⁰ *Id.* at § 23.42.051.

³⁸¹ *Id.* at § 23.84A.002 “A” “Agricultural Use”(5).

³⁸² *Id.* at § 23.42.051(A)(1); 23.42.051(A)(4).

³⁸³ From 7 a.m. to 7 p.m. every day of the week, noting that on-site sales are not considered commercial pickups. *Id.* § 23.42.051(A)(2)-(3).

³⁸⁴ *Id.* at Table A for § 23.47A.001.

³⁸⁵ *Id.* at § 23.42.051(A)(5).

³⁸⁶ *Id.* at § 23.42.051(A)(7).

³⁸⁷ *Id.* at § 23.42.051(A)(6).

³⁸⁸ *Id.* at § 23.45.504(C)(8).

³⁸⁹ *Id.* at Table A for § 23.47A.004, Table A for § 23.50.012.

³⁹⁰ *Id.* at § 23.43.040 (E).

³⁹¹ *Id.* at § 23.42.051(B)(1)(a)-(e).

³⁹² *Id.* at § 23.42.051(B)(2)(a)-(e).

³⁹³ *Id.* at § 23.42.051(C).

³⁹⁴ *Id.* at § 23.42.052.

³⁹⁵ *Id.*

³⁹⁶ *Id.* at § 23.42.052(A)(2)(b). Miniature potbelly pigs and miniature goats are expressly allowed to be kept as small animals. *Id.* § 23.42.052(B) and §23.42.052(F).

³⁹⁷ *Id.* at § 23.42.052(A)(2)(c).

³⁹⁸ *Id.* at § 23.42.052(C).

³⁹⁹ *Id.* at § 23.42.052(C)(2)-(3).

⁴⁰⁰ *Id.* at § 23.42.052(C)(1).

⁴⁰¹ *Id.* at § 23.42.052(D).

⁴⁰² *Id.* at § 23.42.052(D)(1)-(2).

⁴⁰³ *Id.* at § 23.42.052(E).

⁴⁰⁴ *Id.* at § 23.42.052(E)(1).

⁴⁰⁵ *Id.* at § 23.42.052(E)(2).

⁴⁰⁶ *Id.* at § 23.84A.002 “A” “Agricultural Use” (1).

⁴⁰⁷ *Id.* at Table A for § 23.47A.004, *Id.* Table A for § 23.50.012.

⁴⁰⁸ *Id.* at § 23.42.053.

⁴⁰⁹ *Id.* at § 23.84A.002 “A” “Agricultural Use” (3).

⁴¹⁰ *Id.* at § 23.42.053(A)–(B).

⁴¹¹ *Id.* at § 23.84A.014 “G” “Greenhouse.”

⁴¹² *Id.* at § 23.45.514(J)(10).

⁴¹³ *Id.* at § 23.45.545(B)(3).

⁴¹⁴ *Id.* at § 23.54.015(B)(5).

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⁴²³ *Id.* at pp. 28-29

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⁴²⁷ *Id.* at § 199.

⁴²⁸ DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS, Title 11, Zoning § 201.1(h).

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⁴³⁰ *Id.* at §§ 901.5(b) and (e).

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