

# Policies from the Field

*Promising Food Policies from Other Places*



Canadian  
Environmental Law  
Association  
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## INCREASING ACCESS TO LOCAL FOOD:

POLICIES FROM OTHER PLACES AS A GUIDE TO INCREASING LOCAL FOOD  
ACCESS THROUGH LAND USE PLANNING IN ONTARIO

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By: Burgandy Dunn, Project Council  
Canadian Environmental Law Association

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*DISCLAIMER: The material provided in what follows is an overview of the land use planning framework in Ontario as it pertains to local food availability. It includes a summary of a selection of policies in place in various jurisdictions. The information contained herein is not a legal analysis of the applicability nor legal advice on the implementation in Ontario of the policy tools discussed. The present document is not intended to serve as legal advice.*

## I. INTRODUCTION

Recent decades have been witness to two inter-related crises: the farm income crisis and the health crisis. Connecting the two is what has been referred to as the ‘good food gap;’<sup>1</sup> that is, the schism between the production and consumption of local foods such that it is becoming less and less economically viable for local farmers to produce foods for local consumption while at the same time there is insufficient local food available to meet consumer demand. The health consequences of this lacking availability of fresh local food is further exacerbated by the relative abundance of low-cost, low-nutritional value, foods; a problem that is pronounced for low-income and remote communities.<sup>2</sup>

These unintended consequences of the current food system stem in large part from a failure to plan for food. Uncoordinated agricultural, economic development, land use, transit, and health policies impact farmers, consumers, and everyone in between. Negative repercussions extend to the environment, community development, the health care system, the economy, and social and cultural traditions. Most disconcerting however is the above noted associated health outcomes. A lack of access (due to both lacking physical availability and financial means) to healthy foods has led to the startling coexistence of obesity and malnutrition.<sup>3</sup> Canada has an overweight and obesity epidemic such that in 2011 13,211,116 adults (and 428,787 youth<sup>4</sup>) were overweight or obese.<sup>5</sup> If current trends continue, estimates suggest that by 2040, up to 70% of adults aged 40 years will be either overweight or obese.<sup>6</sup> Further, a reversal of the longevity trend is expected in coming years, such that “in many families, the children may live shorter, less healthy lives than their parents.”<sup>7</sup> At present, it is vulnerable communities, including those that are low-income, geographically remote, and low mobility, which suffer most from a lack of access to healthy foods. Planning for food has an important role to play in the reversal of these trends. Correcting the ‘good food gap’ necessitates comprehensive planning that recognizes the integrated nature of health, sustainability and economic vitality in the food system. A healthy food system is one that, among other things, provides the space and infrastructure for local farming, processing, distributing and retailing of local foods; is economically viable for the food and agriculture sector including small and medium sized farmers, processors and distributors and retailers; makes healthy foods available in all communities; and is environmentally sustainable.

Land use planning and regulation, especially when integrated in a comprehensive ‘planning for food’ framework, has significant potential to improve the accessibility of local food. Land use planning refers to the management of land and resources and directs the future use, distribution and character of land. Land use planning and regulations impact, among other things, the design and character of neighbourhoods, the location of homes, schools, grocery stores, the permissible uses of open space, and the protection of agricultural lands. The present paper focuses on the ways in which land use planning can improve physical access to local food, and will examine policies that have potential to remedy structural inequalities in our food system by eliminating barriers and proposing opportunities within the land use planning system. Consideration of the need for social assistance reform and other interventions to increase the economic means of low-income individuals to access healthy food is an important related subject, but one which falls beyond the scope of the present

paper. In what follows, three land use policy areas from other jurisdictions will be presented: (1) comprehensive planning for food; (2) making healthy food available in all neighbourhoods, and (3) supporting urban and peri-urban agriculture. While the preservation of agricultural lands is of central importance to ensuring local food access, the following is limited to an examination of land use planning policies which can increase the availability of local foods.

## BARRIERS TO LOCAL FOOD ACCESS

*Access* to local food requires both physical access to (i.e., convenient availability of), as well as the economic means to grow, produce, access, and eat foods that are healthy, safe and culturally appropriate.

### *(a) Financial Limitations*

Despite being a region home to prime agricultural land, inequitable access to healthy food is a reality in Ontario. Recent studies indicate that Ontario is experiencing an increase in food insecurity such that 8.5% of Ontarians are food insecure,<sup>8</sup> and 395,106 Ontarians use food banks, 37.5% of whom are children.<sup>9</sup> There is a long term trend that the price of healthy foods (such as fresh produce, meat, dairy, milk, and eggs) is becoming higher (and at a faster rate) relative to non-healthy foods (such as processed cheeses, snack foods, and fruit-flavoured crystals). Unlike housing and energy costs, food is a flexible budget item. For people living on a limited budget, quantitative or qualitative compromises often have to be made when purchasing food. To make matters worse, healthy food options are often limited, and available only at inflated prices, in many low-income neighbourhoods. Similarly, geographically remote northern Ontario communities have food prices that are an average of 86% greater than the Canadian average.<sup>10</sup>

### *(b) Lacking Availability of Local Food*

While consumer demand for local food is trending upwards,<sup>11</sup> at present this reported preference is not consistently reflected in consumer shopping habits.<sup>12</sup> This is likely a result of the lacking availability of local foods, the subsequent difficulty involved in finding local foods, and the investment of time and energy required to make the necessary trips to small specialized shops, farmers' markets, and farm stands to fulfill food needs.

The lack of local and seasonal food choices has become an integral part of the dominant agro-industrial commercial food system, where the majority of food is sold from large regional or national food outlets. Having food items available year round has corresponded with a disconnect between the production and consumption of food, such that consumers have for the most part lost a sense of food origin and seasonality, and have grown to expect all food items to be available at all times.<sup>13</sup> To boot, food labelling laws that allow imported foods *packaged* in Canada to be labelled as a product of Canada adds to consumer confusion.<sup>14</sup> Thus, the work and time required to access local foods is further exacerbated by consumer

confusion around food origin and seasonality. Such a system makes it difficult for consumers to find, recognize, and purchase local foods even when they want to.

The lacking retail availability of local foods is pronounced in low-income and remote communities. In some neighbourhoods there is not only a lack of *local* food options, but a general lack of healthy retail food options. These so called ‘food deserts’ are geographic areas, often corresponding to low-income neighbourhoods, which are lacking food retailers, such as farmer’s markets and grocery stores, and which tend to have an over-supply of retailers selling low cost, low nutritional quality, and calorie-dense foods (such as expensive convenience stores and fast food outlets). The problem of food deserts compounds the financial barriers to healthy eating for low-income communities, described above, by making it again more difficult to obtain healthy foods with few resources. To make matters worse, public transportation from low-income and remote neighbourhoods to grocery stores or farmer’s markets is often infrequent, inconvenient, or altogether unavailable, further exacerbating the problem of inequitable access to healthy foods.<sup>15</sup>

## LAND USE PLANNING AND FOOD ACCESS IN ONTARIO

### *(a) Implications of the Status Quo*

Healthy, sustainable food systems are a prerequisite for healthy, sustainable communities, and as with other necessities of life, such as air, water and shelter, land use planning has an important role to play when it comes to food. While land use planning can direct the development of a healthy, sustainable food system, it can also result have unintended effects if not carefully planned and integrated within a ‘planning for food’ framework.

The current food system in Ontario is one which yields the following absurd results:

- The Ontarian population is becoming increasingly dependent on imported foods despite the province’s abundance of fertile agricultural land. Small and medium scale producers of local food can often not meet the supply chain requirements of large regional or national supermarkets and as a result are ‘sized out’ of the market. Limited retail options for small scale producers of local food results in large national and regional food retailers selling imported produce when local produce is in season.
- Consumers cannot fulfill their desired consumption of local foods due to a lack of retail availability. At the same time, local farmers are unable to economically sustain their farms because of: a lack of retail opportunities; increasing pressure and land loss from settlement expansions and speculation; the loss of agriculture related infrastructure (such as processors); fewer entrants into the food and agriculture sector and the subsequent loss of a skilled and knowledgeable workforce.
- Low-income populations at risk for poor health, malnutrition and obesity are provided with government programming such as health care, education, nutrition counselling, etc., but are not provided with retail food options from which to buy local and healthy foods. At the same time, some municipalities have municipal regulations which prevent community members from growing their own food.<sup>16</sup>

*(b) Increasing Access to Local Food through Land Use Planning*

The above listed contradictions are all possible because the current food system is not functioning well. At all three levels of government, there has been a neglect to plan for food, and a subsequent lack of coordination between health, environmental, agricultural, and economic development policy objectives.<sup>17</sup> Land use planning has an important role to play in local food system success. Land use planning has in some instances negatively impacted the economic viability of the food and agricultural sector by designating land uses in a way that is not conducive to agricultural activities.<sup>18</sup> Likewise, in some cases it has caused decreases in local food availability by disincentivizing small grocers, farmers' markets and other local food retailers. It has also limited, and in some cases prohibited, urban and peri-urban agriculture. Going forward, land use planning should be coordinated with food system planning, and unintended negative consequences of land use planning on the food system prevented.

Jurisdiction over food and agriculture in Canada is divided 'vertically' (between local, provincial, and federal levels of government) as well as 'horizontally' between various ministries or departments.<sup>19</sup> The responsibility for food and agriculture lies with eight federal ministries, departments and agencies,<sup>20</sup> and relates primarily to trade and national standard setting for food safety, grading, and labelling.<sup>21</sup> Provincial responsibilities are shared with the federal government on food production support and research, but otherwise include land use, and the internal movement of goods.<sup>22</sup> Government departments and ministries do not have integrated food systems planning, which can result in a contradiction of departmental goals and objectives.<sup>23</sup>

Land use planning is of particular relevance to the accessibility of local food in Ontario. The provincial government's role in land use planning is to provide guidance through the issuance of provincial policy statements and plans. The province of Ontario promotes through its policies and plans matters of provincial interest. The *Planning Act*<sup>24</sup> provides a land use planning system led by provincial policy which is intended to promote sustainable economic development in a healthy natural environment. It sets out how land uses may be controlled, and details the provincial and municipal governments' respective jurisdiction and powers. The *Planning Act* integrates matters of provincial interest into provincial and municipal planning by requiring that all planning decisions be *consistent with* the Provincial Policy Statement, 2005 (PPS).<sup>25</sup> It establishes a planning process which recognizes the decision-making authority and autonomy of local governments, and provides local governments with a variety of tools to facilitate land use planning.<sup>26</sup>

The municipal government's role in land use planning is significant. Local governments have knowledge of local climates, land uses, and capacities as pertinent to agriculture and food production. While overarching provincial laws, policies, and plans set land use planning priorities and provide guidance, a great deal of discretion is left to municipalities to make local land use planning decisions that respond to local conditions and which are appropriate for the future of their communities. For example, municipal planners' and councillors' land use planning and decisions determine the community character and design, the permissibility and placement of retail grocery stores, farmer's markets, and urban agriculture, and whether

urban settlement expansions occur on agricultural land.<sup>27</sup> In the development of planning documents and zoning by-laws to determine land use and growth, local planning decisions and documents must be *consistent with* provincial policies and conform to provincial plans. The central activity of municipal land use planning is the making of an Official Plan, a document which guides future development of an area in the best interest of the community as a whole. The Official Plan sets out the general goals and policies that will be used to guide future land use. Zoning by-laws implement the goals and policies of the Official Plan, laying out the specific rules and regulations that control development as it occurs. For this reason, many aspects of local food systems are best approached from a municipal perspective. However, in order to support and ensure the incorporation of local food system planning at the municipal level, change is also required at provincial level. With provincial support, there are great opportunities for municipal leadership.<sup>28</sup>

## II. POLICY #1: PLAN FOR FOOD

The existence of food deserts reflects poorly on a community's planning system. In recent decades land use planning has grown beyond urban design to incorporate considerations relating to community needs and health. However, unlike with other essentials for life (such as air, water, and shelter) only food has lacked attention as a *planning* issue.<sup>29</sup> Food has been, and continues to be in many jurisdictions, sidelined; perceived as within the bailiwick of the private market.<sup>30</sup> As the presence of Ontarian food deserts attests to, market forces are unable to provide equitable access to healthy food. As an essential community need, and one which impacts directly on health, food access falls squarely within the purview of planning.<sup>31</sup>

Securing local food availability in all neighbourhoods requires the integration of food system planning across departments and at all levels of government – including provincial, regional, local, and with First Nations. It must be built on a recognition of the interrelated nature of community health, economic vitality, and sustainability in the food system. Especially when updated and incorporated into a larger 'planning for food' framework, land use planning can play a pivotal role in ensuring the availability of local food at the neighbourhood level.

## COMPREHENSIVE PLANNING: INTEGRATING PLANNING FOR FOOD INTO LAND USE AND TRANSIT PLANNING

In the past, land use planning and regulations encouraged car-dependent sprawl. In favour of large homes, big backyards, and lots of parking space, policies and regulations were developed to separate land uses and restrict density levels. As a result, many jurisdictions have had, and many still have, land use policy and regulations that discourage, or prohibit, appropriate mixed land uses and complete, compact neighbourhoods. By separating food retail from residential zones, and by building car dependent neighborhoods, such development patterns negatively impact food access.

Development and redevelopment must occur such that food access is considered and given weight from the outset. Food access requires the preservation of the agricultural land base

needed for the production of food, but also the incorporation of food production and processing, and related infrastructure, as well as distribution mechanisms. This recognition should be incorporated into provincial and municipal policy, plans, and legislation so as to enable, and remove barriers to, the provision of space, infrastructure, and transportation for such uses.<sup>32</sup> “Location efficient development” has the potential to ensure local food availability. Location efficient development is an approach to development that encourages ‘complete communities’, with convenient distances between residential, workplaces, stores, and services such that people can “live where [they] go, work, and play.”<sup>33</sup>

**Planning for food requires mixed use zoning.** Mixed-use zoning encourages, within one zone, uses that have typically been confined to separate zones, incorporating residential housing, light industry, and commercial enterprises, thereby providing more complete, liveable communities. This supports local food access by ensuring that food sources are integrated into, or near to, residential zones, thereby increasing resident proximity to supermarkets, farmers’ markets, community gardens, and restaurants, and making it easier for communities to access healthy foods.<sup>34</sup> Creating mixed-income neighbourhoods also makes it more economically viable for food retailers to establish themselves.<sup>35</sup>

### **Example: Wisconsin**

The state of Wisconsin has mandated that municipalities adopt zoning rules which ensure mixed use and walkable neighbourhoods. The Comprehensive Planning Law for Wisconsin requires municipalities<sup>36</sup> to enact a “Traditional Neighbourhood Design” ordinance. The University of Wisconsin Extension Program created a model ordinance that municipalities can adapt to their particular situation. The model recommends that permitted commercial uses include food sources, such as neighbourhood grocery stores, butcher shops, bakeries, restaurants (but no drive-thrus), cafes, coffee shops, and neighbourhood bars and pubs.<sup>37</sup>

The importance of planning ‘complete communities’ has taken hold in many communities. Other good examples include:

- efforts to achieve food-related goals through municipal sustainability plans;<sup>38</sup>
- integration of transportation and food planning to facilitate food access;<sup>39</sup>
- use of land use planning policy to make neighbourhood commercial areas walkable, so that community needs (including accessing food) can be met without travel by car;<sup>40</sup> and
- incorporation of urban agriculture into land use planning policy and amendments to municipal plans to promote improved food access by encouraging community gardens or farmers’ markets.<sup>41</sup>

**Planning for food needs to be integrated with transit planning.** Land use planning that decreases the distance people have to travel in order to acquire the goods and services they need can be complemented with transit planning that recognizes the role transportation plays in food access, and the importance of safe, affordable and convenient non-vehicular and/or public transit options between residential zones and food sources.<sup>42</sup> Public transit routes, often determined by transportation authorities, play a major role in determining food access, especially for low-income communities. Land use and transit planning should be coordinated

such that public transit routes, as well as bike lanes and pedestrian routes, help increase access to grocery stores, farmers markets, and other sources of healthy food. Recognition should be given to the importance of reducing travel time to food sources, and increasing safety and convenience of connections between low-income and low-mobility neighbourhoods.<sup>43</sup> Land use planning can enable food access by providing food sources accessible by multiple transit options within neighbourhoods. Such efforts simultaneously protect agricultural spaces by redirecting development to existing areas and decreasing development pressure on urban fringes.

One type of land use planning initiative that has made progress in increasing access to healthy food sources is Transit-Oriented Development (TOD). In many cases, government and transit agencies partner with private developers to create complete communities by building housing, office space, and retail shops next to, or above, public transit stations. In other cases, cities are incentivizing development in proximity to existing public transit stations. Other cities have used TOD in already built-up urban areas to attract grocery stores as tenants.

**Examples** of coordinating land use, transit planning, and food access include:

- incentivizing development in proximity to existing public transit stations<sup>44</sup>
- placement of farmers' markets at public transit stations<sup>45</sup>
- creation of new transit routes, and increases to existing transit services<sup>46</sup>
- creation of destination-based routes<sup>47</sup>

To be successful, as detailed above, such planning policies must be integrative, incorporate food system planning, and be able to address multiple community needs, such as economic development, transit, affordable housing, urban agriculture, in addition to urban design.<sup>48</sup> Land use planning has great potential to increase food access only insofar as its policies incorporate food access considerations and the needs of community members, especially low-income and low-mobility community members. Failure to do so may have inadvertent negative impacts on food access, such as more compact communities with little to no increase in terms of equitable food access, or a loss of land for use as urban farms and community gardens.<sup>49</sup>

### III. POLICY # 2: INCREASE HEALTHY FOOD AVAILABILITY IN ALL NEIGHBOURHOODS

Currently, it is most common and most convenient to buy food from the local supermarket, which is often a large regional or national chain. Farmers' markets, once a main source of food among communities, virtually disappeared in North America throughout the 20<sup>th</sup> century. With globalization and technological improvements, the seasonality and locality of food declined as a deciding factor in people's diets.<sup>50</sup> Increasingly, food purchased and consumed is not locally produced, but imported. However, consumer concerns about health and the environment have resulted in a rise in popularity of local food. While farmers' markets, community-shared agriculture (CSA) and other initiatives are becoming increasingly present, they represent only a small part of the food market.<sup>51</sup>

While the above-described trends are true across the board, the problem of local food availability is exacerbated for low-income and remote communities. Due to the lack of grocery stores and the high density of fast food outlets and expensive convenience stores, healthy food options are unavailable, or available at higher prices, in some low-income and geographically remote neighbourhoods. Such neighbourhoods are referred to as ‘food deserts.’ That is, neighbourhoods lacking in accessible and affordable healthy food retail options.<sup>52</sup> Proximity to grocery stores is correlated with positive dietary health,<sup>53</sup> and negatively correlated with higher rates of diet-related disease and mortality. As such, many community members living in food deserts suffer a double burden of malnutrition and obesity.

**Local food access requires planning.** As described above, planning for food should be a principle incorporated in a comprehensive way into broader community planning. Through provincial policies and plans, and municipal plans and by-laws, government can support local food distribution mechanisms. Provincial policies and plans should support planning for food access, and, in particular, should encourage mixed use development to include retail food sources. Economic development plans and land use planning can be aligned with food access goals. So doing would mean that land use planning policies, and development regulations should be modified to support and incentivize food availability (i.e., food retail) in all neighbourhoods. Complementary economic incentive programs can be provided to offer sites and development assistance to encourage retail food sources such as farmers markets, small-scale processing facilities, and distribution centers for foods produced regionally.<sup>54</sup> Municipal governments can support food access by recognizing alternate sources of food, such as farm stands, farmers’ markets, and urban agriculture, as appropriate and desirable land uses, and provide space, infrastructure, and transportation access for such uses.

**Examples: Ann Arbor, Milwaukee**

The Farmers’ Market in Ann Arbor is a good example of municipal support and planning directed toward increasing local food access and supporting producers. Despite being one of the oldest farmers’ markets in the US, the Ann Arbor Farmers’ Market lost popularity in the 1970’s and 1980’s. In response, the municipality established by city ordinance a public-stakeholder Farmers’ Market Commission to act as an advisory board to help shape the future of the market and guide daily market operations. Additionally, the municipality developed a Farmers’ Market Master Plan, shaped by community participation, and began improvements to market facilities.<sup>55</sup>

Similarly, Milwaukee, WI, ensures that food system issues are incorporated into the City’s comprehensive plan by including urban agriculture advocates on almost every committee for its comprehensive plan revision process. One of the Plan’s listed policies is to: “Support temporary or permanent reuse of the city’s vacant, abandoned, underutilized, and open space lands for functional, environmental, and productive uses such as community gardens, urban orchards, stormwater management, energy generation, and neighborhood parks and open space,” through tasks such as inventorying available properties to find ways to promote these beneficial uses.<sup>56</sup>

**Local food access requires distribution mechanisms.** Equitable physical access to local foods can be facilitated by provincial and municipal governments by enabling distribution opportunities for local foods, including small grocers, farm shops or stands (space owned or controlled by farmers), farmers' markets, produce auctions, mobile produce carts, home-delivery box schemes, community shared agriculture, and food assistance programs.

This will require new developments to be zoned mixed-use and redevelopment to incorporate small and mid-size grocery stores, farmers' markets, food assistance and nutrition programs, and open space and related infrastructure for community vegetable gardens to allow residents to grow their own food. Alternatively zoning code reforms may be considered. Some US jurisdictions have adopted "form-based codes" which focus on the form and orientation of a building, rather than on how the building is used. Thus, rather than limiting permissible uses, the zoning code specifies the building height, set backs from the street, and other elements of its form. Certain "nuisance" uses may be prohibited. However, few of such zoning systems explicitly incorporated requirements for healthy foods, and should be assessed for their ability to increase access to healthy foods.<sup>57</sup> As-of-right zoning (i.e., whereby development may proceed without discretionary approval, such as issuance of a permit) has also been employed to permit small grocery stores in residential zones.<sup>58</sup> Plans and redevelopment proposals for food insecure areas could be developed, with sites and incentives for increased food sources.<sup>59</sup> Retail food sources can be promoted by ensuring complementary zoning for farmers' markets, temporary farm stands, urban agriculture projects, community vegetable gardens, community kitchens and other food sources especially within low income neighbourhoods.<sup>60</sup> Any zoning barriers to food retail activities can likewise be addressed or removed. Similarly, barriers to direct marketing by farmers, and niche marketing of specialized agricultural products can be removed.<sup>61</sup>

However, while an important consideration and potential barrier, zoning may not be as influential as economic concerns and market forces. The above-noted enabling efforts can be strengthened by government assistance with site location and the setting of local food requirements for Farmers' Markets on public lands. Likewise, municipalities can assist with logistics such as traffic, parking, promotion and signage, set up and maintenance.<sup>62</sup> Government can reinforce such efforts through the provision of financial incentives via special zoning provisions to encourage food retailers to locate in underserved low-income areas.<sup>63</sup> Municipal governments can also, via incentives or in the course of business district revitalization efforts, encourage and support convenience stores to offer healthier food options.<sup>64</sup>

### **Examples: *Baltimore, San Francisco, Chicago***

Baltimore has made food retail a priority and is taking an active approach to bringing grocery stores back into the city. The city is reclaiming thousands of acres of vacant property and helping to assemble parcels as sites for new grocery stores. The City planning agencies have reached out to developers City officials have worked closely with grocery chains to encourage and facilitate investments.<sup>65</sup>

San Francisco has complemented its land use planning with approvals incentives to enrich the food environment. By financing and permitting subsidized, mixed-use housing developments, San Francisco works with affordable housing developers to identify grocery vendors for newly constructed or rehabilitated retail space. Use of a conditional use permitting process for new residential projects requires developers to make every feasible attempt to attract grocers.<sup>66</sup> Similarly, Chicago uses customized marketing packages and gives developers a single point of contact to streamline the permitting process, smoothing the way for the development of new stores.<sup>67</sup>

Other municipalities<sup>68</sup> provide financing to grocery stores willing to locate in underserved low-income areas.<sup>69</sup>

**Local food access can be complemented by efforts to limit unhealthy food choices.** In neighbourhoods lacking healthy food options, households often adapt by relying more heavily on what is often an overabundance of, fast food outlets and convenience stores. Land use planning and zoning can be used to decrease the prevalence of unhealthy food choices in certain vulnerable communities,<sup>70</sup> including within a specified radius of schools and youth-centred facilities.<sup>71</sup> While such bans are vulnerable to challenges by affected industry, US experience suggests that the legal case is strongest when communities have cited goals such as “access to healthy foods” in their comprehensive plans and municipal plans and by-laws.<sup>72</sup>

**Example: *Los Angeles***

Based on health concerns, Los Angeles, Calif., amended its zoning in a low-income neighbourhood to limit fast-food restaurants and drive-thrus.<sup>73</sup>

#### IV. POLICY #3: EXTEND OPPORTUNITIES FOR URBAN AND PERI-URBAN AGRICULTURE

Whereas there has been a fairly steady existence of community gardens in Europe, the popularity of urban agriculture has occurred in cycles in North America, most often corresponding to times of need during war and recession.<sup>74</sup> Today, agriculture is generally considered an exclusively rural activity. As a result, provincial policy and municipal zoning by-laws may stand in the way of increasing urban and peri-urban agriculture. For instance, zoning by-laws in many communities prohibit the keeping of hens for eggs. Municipal zoning by-laws may prohibit commercial agriculture in residential zones, prohibiting the development of community gardens or urban farms in those areas. Similarly, zoning by-laws may not include as ‘permissible uses’ activities such as food sales, thereby making the sale of produce grown in a local garden illegal in that zone. Zoning by-laws may also stipulate the kinds of permissible structures allowed on plots within a given zone, potentially limiting the construction of greenhouses or hoop houses.<sup>75</sup>

Government support is needed to expand urban and peri-urban agriculture initiatives, including (i) the creation and protection of urban agricultural lands; (ii) formal recognition of agriculture as an appropriate urban land use (and updating Official plans and zoning by-laws

accordingly); (iii) provision of government-owned land for urban agriculture, and (iv) supporting urban agriculture as an economic enterprise.

**Local food access can be increased through the creation and protection of urban agriculture lands.** If urban agricultural activities are going to be maintained or extended, then urban agricultural lands must be created, and existing lands protected. To do so, some local governments have, in partnership with not-for-profit organizations, established land trusts with the purpose of preserving land for community gardens. Similarly, local governments can establish Community Gardens Programs to acquire and coordinate the distribution of parcels of land for community gardening.<sup>76</sup>

### **Examples: *Chicago, Montreal, Seattle***

NeighborSpace<sup>77</sup> is a Chicago non-profit-organization whose mission is to acquire and preserve the community-based management of community gardens<sup>78</sup> in the City of Chicago. Neighborspace is provided with leadership and financial support from the City of Chicago, Chicago Park District and the Forest Preserve District of Cook County. Neighborspace has acted as a land-trust for community gardens since its establishment in 1996, since which time it has acquired more than 50 sites throughout Chicago for community garden preservation.<sup>79</sup>

Montreal's Municipal Community Gardening Program is an example of an extensive municipally-run gardening program, which is supported by the government's development plans to 'green' existing open spaces. Since its establishment in 1975, the City of Montreal has maintained 75% of its urban gardens. While day-to-day garden administration is provided by volunteers, the City provides land, fencing, composting, manure, topsoil, tools and a clubhouse, outdoor furniture, garbage collection and maintenance. Each Municipal Borough administers the community garden program for the garden sites in its region, and can appeal to other municipal services required for garden management including needed equipment and materials. The City strives to protect community gardens from commercial speculation by zoning territories occupied by community gardens as park zones. To date, two-thirds of the gardens are thus protected. The program is considered a model in North America, and many Canadian cities, such as Winnipeg, Regina and Halifax, have adopted some form of this model.<sup>80</sup>

P-Patch is the name given to community gardens that are managed by the Seattle Department of Neighborhoods P-Patch Community Gardening Program. The P-Patch Community Gardening Program is run by Seattle's Department of Neighborhoods and P-Patch Trust, a local non-profit organization. The land used is a mix of land owned by government, land trusts, and private individuals. The program has been in place of 39 years, and oversees 44.5 acres of land. The supporting municipal legislation includes a resolution to promote "cooperation among such agencies...for community gardening"<sup>81</sup>, as well as the adoption of the P-Patch Program in the municipal Strategic Plan.<sup>82</sup> Municipal legislation provides the funding for the program.<sup>83</sup> Community members provide environmental stewardship of 31 acres of the land, and garden for food 13.5 acres of the land. There are approximately 78 P-Patches in total, and include community gardens and food bank gardens, as well as gardens

which focus on low-income and immigrant communities, and youth, including schools, daycares and after school programs. Food growing acres directly serve 4,400 gardeners, 20% of whom are people of color; 55% of whom are low income; 48% of whom live in multifamily dwellings; and 77% of whom have no gardening space where they live. Members are required to practice organic gardening techniques and plant a mix of food crops, flowers, herbs, fruiting bushes & trees.<sup>84</sup>

**In order to flourish, urban agriculture must be recognized as a permissible, and desirable, urban land use.** As mentioned above, many current land use regimes exclude agriculture as a permissible urban land use. In order to extend urban agriculture opportunities, municipal land use plans and by-laws must be updated to include agriculture as a recognized urban land use.<sup>85</sup>

### **Examples: *Montreal, Cleveland***

#### **Montreal**

Montreal provides for urban agriculture as a permanent land use of municipal parks, and has the largest community garden program in Canada, which is managed at the borough level.<sup>86</sup>

#### **Cleveland**

Some cities are creating urban agriculture zones. Cleveland is one such example.<sup>87</sup> Cleveland established as part of its Zoning Code<sup>88</sup> an Urban Garden District to “ensure that urban garden areas are appropriately located and protected to meet needs for local food production, community health, community education, garden-related job training, environmental enhancement, preservation of green spaces, and community enjoyment on sites for which urban gardens represent the highest and best use for the community”. It establishes, as permissible uses with its Urban Garden District, community gardens and market gardens, and permits accessory uses including structures related to agriculture (i.e., hoopouses, greenhouses), raised beds, compost bins, rain barrel systems, chicken coops, buildings (i.e., tool sheds, barns), and signage.

**Zoning can be used to support or require urban agriculture.** Municipal support can be provided by including minimum requirements for urban agriculture. Some US cities,<sup>89</sup> have updated zoning regulations to support, or even require, rooftop agriculture. Zoning regulations can be amended to support rooftop agriculture by altering restrictions on building height to allow for structures necessary to support rooftop agriculture (such as greenhouses).<sup>90</sup> Zoning by-laws can also be amended to make agriculture on residential lands permissible, such as agricultural production or the raising of livestock.<sup>91</sup>

### **Examples: *Toronto, Seattle***

Toronto has in place a by-law that requires new, large developments to have green roofs. The by-law, adopted by Toronto City Council in May 2009, under the authority of Section 108 of the City of Toronto Act, requires green roofs on new commercial, institutional, residential, and industrial development with a minimum Gross Floor Area of 2,000m<sup>2</sup>. A database has been established for Ontario related green roof research.<sup>92</sup>

Seattle's land use legislation sets a minimum of at least one community garden for every 2,500 households. The municipality supports the creation and maintenance of community gardens with funding and programming, providing entrepreneurial (i.e., garden sales) opportunities, emergency food assistance, as well as food and farming information to youth.<sup>93</sup>

**Recognizing urban agriculture as a permissible economic enterprise can increase urban food production.** Urban agriculture as an economic enterprise provides the double benefit of increasing local food access and increasing economic opportunities for low-income residents. Food-related enterprises are a common type of small business development and a potential opportunity for many households to supplement income and achieve economic stability.<sup>94</sup>

**Examples: *Nashville, Providence***

Nashville allows commercial as well as non-commercial community gardens as a Permitted use or a Special Exception use.<sup>95</sup>

Providence, RI has embraced, as a priority in its comprehensive Plan, (under its statement on Environmental Sustainability) “the commitment ... to incorporate standards” including supporting “community gardens and small-scale agriculture”. It also includes under Neighborhood Economic Development the objective of providing support for “local agriculture through farm-to-school and farm-to-government programs that link local farmers to schools and encourage government purchasing of local produce.”<sup>96</sup>

**Urban agriculture needs a space.** Finally, provincial and municipal governments can play a significant role in supporting urban agriculture initiatives by simply providing publicly owned (institutional or vacant) lands for the development of vegetable gardens, edible landscaping, and related infrastructure.<sup>97</sup> The provision of municipal land for such purposes also serves as an important symbolic move that may help to counter the popular attitude that agriculture is something that happens outside of the city.<sup>98</sup> For instance, government can support food production on the grounds of public lands such as schoolyards, parks and greenways, or tax-foreclosed properties. Public institutions, including universities, schools, hospitals, correctional facilities, have public missions and are generally located on large sites with vacant land suitable for growing food. Further, they often have funds for the maintenance and management of public lands, some of which could be dedicated to agricultural activities. Initiatives such as edible landscaping or a vegetable garden would serve the additional benefit of providing healthy food for on-site cafeterias while also providing healthy food and employment related benefits for lower-income residents. Any surpluses from community gardening on public lands could be earmarked for community food assistance sites. In order to facilitate donations of excess produce, public institutions could connect with community-based hunger relief organizations.<sup>99</sup>

**Example: *Victoria***

Victoria, BC along with other cities taking progressive steps to facilitate urban agriculture<sup>100</sup> has developed a policy which encourages local non-profit organizations to establish

community gardens on public or private lands. The policy is put in place by way of a by-law to provide state lands and municipal supports (funding, water) to maintaining and developing new community gardens. The municipality provides various supports, including the provision of city-owned land, promotion and coordination, environmental analysis of sites, start up funds, and in kind support.<sup>101</sup>

**Vacant lands can be repurposed.** Inner cities have significant amounts of vacant land that can be put back into productive use with urban agriculture. When used for vegetable gardening by low-income residents, these efforts produce multiple health, social, and economic benefits.<sup>102</sup>

### **Example: New York City**

New York City Department of Parks & Recreation's runs a community gardening program, Green Thumb, which was developed in response to the city's financial crises of the 1970's. The resultant abandoned public and private lands were transformed from derelict vacant lots into vibrant community gardens. Funded by the federal Community Development Block Grants, Green Thumb has been a program of the New York City Park Department since 1995. Green Thumb gardens exist across all five boroughs of the city, and range in use from green spaces to full-fledged farms. They are managed by volunteers of diverse ages and backgrounds. The program provides programming and material support to over 500 gardens.<sup>103</sup>

### **State Examples: New York, Massachusetts**

New York legislation enables municipalities to facilitate the conversion of vacant lots to community gardens. Support includes the establishment of a system for allowing gardening on vacant lands and for tracking the gardens. New York offers technical assistance through an Office of Community Gardens.<sup>104</sup>

The *Massachusetts Gardening and Farm Act of 1974* provides the right to cultivate vacant public land until a 'higher' use is determined by the municipality. This has led to the establishment of dozens of community gardens on vacant land. Today, Boston has approximately 200 community gardens located on city-owned, state, and private land in which approximately 6,000 families grow about \$1.5 million in food products annually. Community Gardens in Boston are overseen by the Boston Natural Areas Network (BNAN).<sup>105</sup>

## **A NOTE ON APPLICATION IN ONTARIO**

**Provincial Policy.** The current PPS Review<sup>106</sup> provides a significant opportunity to strengthen provincial land use planning policy around local food systems and local food access. The Draft PPS Policies have made notable improvements to the previous PPS, including language such as "strong, *healthy*, communities"<sup>107</sup> and '*resilient* development and land use patterns'.<sup>108</sup> Also positive is the explicit recognition that food from Ontario's agricultural resources provides important environmental, economic and social benefits, as

well as language around the importance of supporting local food, and promoting the sustainability of agri-food and agri-business by protecting agricultural resources.<sup>109</sup> Other significant improvements include language around the need to plan land use in settlement areas based on densities and a mix of land uses that support active transportation, are transit supportive, and support the efficient movement of goods.<sup>110</sup> Another positive addition is the section on government coordination, which is to take an integrated and comprehensive approach in planning matters within municipalities, with other levels of government<sup>111</sup> and with Aboriginal communities.<sup>112</sup> While economic development strategies, multi-modal transportation systems, Great Lakes issues, and housing needs are some of the additions to the list of topics subject to government coordinated planning, a significant gap is that there is no mention of coordination on food system planning.<sup>113</sup> Similarly, it is stated, under Draft PPS Policy 1.5, that healthy, active communities should be promoted by: recognition of provincial parks, conservation reserves and other protected areas; and planning that fosters social interaction, active transportation, and community connectivity.<sup>114</sup> This section misses the opportunity to include mention of urban agriculture (such as community gardens) in the list of natural areas to be recognized and protected;<sup>115</sup> likewise it excludes urban agriculture from the list of ‘settings for recreation’ which are to be planned and provided in an ‘equitable’ and ‘publicly accessible’ way.<sup>116</sup> Also of significant concern for agricultural production and local food access is that the Draft PPS revisions give priority, in a case of conflict, to mineral and aggregate resource extraction over the protection of agricultural lands and natural heritage lands, including wetlands, woodlands, and wildlife habitat. This support of aggregate extraction in agricultural areas extends to protected areas covered by Provincial Plans, such as the Greenbelt.<sup>117</sup> Communities need a source of fresh, local food, and this necessitates the wise management of land to meet the needs of current and future residents. Planning for food is of fundamental importance in land use planning and should be prioritized at the provincial level and reflected in amendments to the PPS.

The provincial government could also lend support by way of conducting a local food assessment to provide data on barriers to local food access. Similarly, the provincial government could produce a land inventory containing specific sites of publicly owned properties to assess opportunities to expand community gardens and other forms of urban agriculture.<sup>118</sup>

Land use planning at the municipal level is an opportunity to shape local development patterns into the future, creating healthier and more sustainable communities for all residents. Local governments can plan for local food, by highlighting it as a priority in local official plans, and amending official plans to include food-related goals. Municipalities can concurrently adapt zoning by-laws to support local food. Examples of the latter may include zoning amendments to enable mixed use development, increase urban agriculture (including food production, infrastructure and sales), encourage local food retail, and coordinate transit options with food accessibility.

Few places have attempted or implemented a systematic approach to urban agriculture.<sup>119</sup> Some cities<sup>120</sup> in Ontario support urban agriculture in an informal manner. However a notable barrier is the outdated idea that agriculture is not an urban activity. This is compounded by municipal structures and policies which reinforce the conception of urban versus rural land

use, and which limit the extent and success of urban agriculture in cities.<sup>121</sup> The success of urban agriculture can be promoted by formalized municipal support such as recognizing agriculture as an appropriate urban land use, and developing formal municipal supports such as official plans amendments and zoning bylaws which provide spaces for, and incentivize, urban agriculture.<sup>122</sup>

## V. CONCLUSION

The health of the food system is a precondition for population health, and is integrally linked with the health of: the agricultural sector, local and regional economies, and the environment. Having a healthy food environment requires the accessibility of healthy food for all. The problem is not one of supply but of distribution and access,<sup>123</sup> and as such, it is necessary to coordinate planning in such a way that food is linked with health outcomes.<sup>124</sup> Planning for food should be incorporated into provincial and municipal planning.

Planning for local food and integrating local food access as a principle of land use planning policy will yield benefits for the population, ecological, economic, and environmental health of communities.<sup>125</sup> Land use planning and regulation can positively impact access to healthy food by determining what land may be used for agricultural purposes, the location of retail grocery stores and fast food restaurants, and the rules governing farmer's markets and other retail options for local food.<sup>126</sup> To date, this function of land use planning has received relatively little attention, in part due to the perception that the food and farming industry is a private sector, and not subject to public regulation. However, as the food-related health crisis makes clear, there is an important and legitimate role for land use planning to play in facilitating food access.

## REFERENCES:

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<sup>1</sup> Lauren Baker et al., "Menu 2020: Ten Good Food Ideas for Ontario", Metcalf Foundation (June 2010), online: <http://metcalffoundation.com/wp-content/uploads/2011/05/menu-2020.pdf>. The 'good food gap' is discussed at 9 - 15.

<sup>2</sup> "Sarah Treuhaft, & Allison Karpyn, "The Grocery Gap: Who has Access to Healthy Food and Why It Matters," (2010), online: <http://www.policylink.org/atf/cf/%7B97C6D565-BB43-406D-A6D5-ECA3BBF35AF0%7D/FINALGroceryGap.pdf>

<sup>3</sup> *Ibid* at 10.

<sup>4</sup> Statistics Canada, Summary Tables: Body mass index, overweight or obese, self-reported, youth, by sex. Online: <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/health83a-eng.htm>

<sup>5</sup> *Ibid*.

<sup>6</sup> Childhood Obesity Foundation, "Statistics": <http://www.childhoodobesityfoundation.ca/statistics>

<sup>7</sup> *Supra* note 1 at 11.

<sup>8</sup> Health Canada, "Household Food Insecurity in Select Provinces and the Territories in 2009 – 2010" online: [http://www.hc-sc.gc.ca/fn-an/surveill/nutrition/commun/insecurit/prov\\_ter-eng.php](http://www.hc-sc.gc.ca/fn-an/surveill/nutrition/commun/insecurit/prov_ter-eng.php) Data from 2009 - 2010 indicates that 3% of Ontarians were severely food insecure, and 5.5% were moderately food insecure.

Individuals that are ‘food insecure’ refers to those that they do not have the means to access sufficient healthy food to feed themselves and their families, and who are forced in turn to resort to emergency food relief.

<sup>9</sup> “Children” defined as those under the age of 18 years. “Hunger Count 2011 – Provincial Report”, A National Survey by Food Banks Canada and Ontario Association of Food Banks (2011) available online:

<http://www.oafb.ca/hunger-facts>

<sup>10</sup> Ontario Association of Food Banks, “The Price of Food, Gasoline, and Energy and the Changing Economic Conditions in Ontario” (2008), available online: [http://www.toronto.ca/housing/pdf/oafb\\_a\\_gathering\\_storm.pdf](http://www.toronto.ca/housing/pdf/oafb_a_gathering_storm.pdf)

<sup>11</sup> “Food Connects Us All: Sustainable Local Food in Southern Ontario,” Metcalf Foundation (February 2008 at 9 – 12, online: <http://metcalffoundation.com/wp-content/uploads/2011/05/food-connects-us-all.pdf>

<sup>12</sup> Chantal Blouin et al., “Local Food Systems and Public Policy: A Review of the Literature,” *Équiterre & The Centre for Trade Policy and Law*, Carleton University (September 2009) at 5, online:

[http://www.ctpl.ca/sites/default/files/Local\\_Food\\_Systems\\_and\\_Public\\_Policy\\_-\\_A\\_Review\\_of\\_the\\_Literature.pdf](http://www.ctpl.ca/sites/default/files/Local_Food_Systems_and_Public_Policy_-_A_Review_of_the_Literature.pdf)

<sup>13</sup> *Supra* note 11 at 14.

<sup>14</sup> *Ibid* at 13.

<sup>15</sup> *Supra* note 1 at 11.

<sup>16</sup> “Good Laws, Good Food: Putting Local Food Policy to Work for Our Communities”, Harvard Food Law and Policy Clinic (July 2012) at 36. Available online:

<http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/FINAL-LOCAL-TOOLKIT2.pdf>

<sup>17</sup> *Supra* note 12 at 31.

<sup>18</sup> *Supra* note 16 at 30.

<sup>19</sup> *Supra* note 12 at 27 – 30.

<sup>20</sup> *Ibid.* For more information on federal departments and their responsibilities see Table 5.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Supra* note 12 at 27 – 30.

<sup>23</sup> For example, Health Canada promotes healthy eating, Environment Canada promotes producing and consuming food that has a decreased impact on the environment, and Agriculture and Agri-Food Canada incentivize industrial agriculture, which is often both more environmentally damaging and tends to produce less nutritious food. Clean Air Partnership “Local Food Procurement Actions and Reports Scan” (June 2011) at pp. 24-26 citing *Équiterre* and the Centre for Trade Policy and Law, “Local Food Systems and Public Policy: A Review of the Literature” (September 2009).

<sup>24</sup> *Planning Act*, R.S.O. 1990, c. P.13, available online: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90p13\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90p13_e.htm)

<sup>25</sup> Provincial Policy Statement, 2005, online: <http://www.mah.gov.on.ca/Asset1421.aspx> For more information, see: Ontario Ministry of Municipal Affairs and Housing, “Citizen’s Guide to Land Use Planning, No 1: The Planning Act”, available online: <http://www.mah.gov.on.ca/AssetFactory.aspx?did=5920> (visited 30 August 2012).

<sup>26</sup> Ontario Ministry of Municipal Affairs and Housing, “Citizen’s Guide to Land Use Planning, No 1: The Planning Act”, available online: <http://www.mah.gov.on.ca/AssetFactory.aspx?did=5920> (visited 30 August 2012).

<sup>27</sup> Clean Air Partnership “Local Food Procurement Actions and Reports Scan” (June 2011) at page 22, citing Institute for Food and Development Policy, “Food Policy Councils (FCP): Lessons Learned” (2009).

<sup>28</sup> “Planning Regional Food Systems: A Guide for Municipal Planning and Development in the Greater Golden Horseshoe” at 6, online:

[http://www.ontariofarmlandtrust.ca/sites/default/files/Planning\\_Regional\\_Food\\_Systems\\_FinalJanuary25.pdf](http://www.ontariofarmlandtrust.ca/sites/default/files/Planning_Regional_Food_Systems_FinalJanuary25.pdf)

<sup>29</sup> American Planning Association, “Policy Guide on Community and Regional Food Planning” (2007) online: <http://www.planning.org/policy/guides/adopted/food.htm>

<sup>30</sup> McCann, Barbara, “Community Design for Healthy Eating: How Land Use and Transportation Solutions Can Help” (2006), at 1, online:

<http://bitsandbytes.ca/sites/bitsandbytes.ca/files/sites/default/files/communitydesignhealthyeating.pdf>

<sup>31</sup> *Ibid.*

<sup>32</sup> *Supra* note 27.

<sup>33</sup> “Live Where You Go: Encouraging Location Efficient Development in Ontario”, (2012), online: <http://www.pembina.org/pub/2354>

<sup>34</sup> *Supra* note 16 at 40.

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<sup>35</sup> *Supra* note 28.

<sup>36</sup> with populations over 12,500

<sup>37</sup> The Comprehensive Planning Law for Wisconsin requires municipalities with populations over 12,500 to enact a “Traditional Neighborhood Design” ordinance. The University of Wisconsin Extension Program created a model ordinance that municipalities can refer and adapt to their particular situation. The model ordinance calls for a mix of residential, commercial, civic, and open-space areas, allowing residents to live within one-quarter mile or a five-minute walk from these uses. Permitted commercial uses include neighborhood grocery stores, butcher shops, bakeries, restaurants (but no drive-thrus), cafes, coffee shops, and neighborhood bars and pubs. The Wisconsin Comprehensive Planning law defines Traditional Neighborhood Development (TND) as: “A compact, mixed use neighborhood where residential, commercial and civic buildings are within close proximity to each other. It is a planning concept based on traditional small towns and city neighborhoods. The variety of uses permits educational facilities, civic buildings and commercial establishments to be located within walking distance of private homes. A TND is served by a network of paths, streets and lanes designed for pedestrians as well as vehicles. Residents have the option of walking, biking or driving to places within their neighborhood. Potential future modes of transit are also considered during the planning stages. Public and private spaces have equal importance, creating a balanced community that serves a wide range of home and business owners. The inclusion of civic buildings and civic space such as plazas, greens, parks and squares enhances community identity and value. Such neighborhoods allow the efficient use of public resources and can help preserve the historic and architectural character of the community.” For more information see: University of Wisconsin Extension Program, “A Model Ordinance for a Traditional Neighborhood Development”, prepared by Brian W. Ohm, James A LaGro Jr., and Chuck Stawser (2001), approved by Wisconsin Legislature July 28, 2001. Available online: <http://urpl.wisc.edu/people/ohm/tndord.pdf> See also: Center for Land Use Education, “Planning Implementation Tools: Traditional Neighborhood Design” (Nov 2005), Available online: <ftp://ftp.wi.gov/DOA/public/comprehensiveplans/ImplementationToolkit/Documents/TND.pdf> For a discussion of this land use planning tool, see: “Good Laws, Good Food: Putting Local Food Policy to Work for Our Communities”, Harvard Food Law and Policy Clinic (July 2012) at p. 40. Available online: <http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/FINAL-LOCAL-TOOLKIT2.pdf> With Reference to: Planning Information Sheet: Promoting Food Access with Comprehensive Planning and Ordinances, DESIGN FOR HEALTH, UNIV. OF MINN., 6 (Aug. 2007), online: [http://208.106.193.160/pdfs/Information\\_Sheet/BCBS\\_ISF\\_ood\\_090107.pdf](http://208.106.193.160/pdfs/Information_Sheet/BCBS_ISF_ood_090107.pdf)

<sup>38</sup> The Sustainability Plan for Baltimore MD includes the goals of making Baltimore a leader in sustainable local food systems and recommends that the development of an urban agriculture plan as well as an increase in the percentage of cultivated land. Similarly, Kansas City, MO promotes urban agriculture in its Climate Protection Plan, recommending that the city collaborate with Kansas City Community Gardens and Kansas City Center for Urban Agriculture to locate demonstration garden sites; offer incentives for urban agriculture activities; and further support these initiatives with funding for gardening workshops. Discussed in “Good Laws, Good Food: Putting Local Food Policy to Work for Our Communities”, Harvard Food Law and Policy Clinic (July 2012) at p. 35. Available online: <http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/FINAL-LOCAL-TOOLKIT2.pdf> For more information on the Kansas Sustainability Plan: Kan. City Office of Env’t Prot., Climate Protection Plan, Phase 1 Recommendations for Greenhouse Gas Reduction measures (Nov. 2007), online: <http://www.marc.org/environment/airq/pdf/kcmostatus11-07.pdf>. For more information on the Baltimore Sustainability Plan see: 5 Balt. Comm. on Sustainability, Baltimore Sustainability Plan 74-75 (2009), online: [www.baltimorecity.gov/Portals/0/agencies/planning/sustainability/public%20downloads/051509\\_BCS-001SustainabilityReport.pdf](http://www.baltimorecity.gov/Portals/0/agencies/planning/sustainability/public%20downloads/051509_BCS-001SustainabilityReport.pdf)

<sup>39</sup> In Knoxville, TN, the implications on food access of proposed alterations to bus routes are reviewed by the local food policy council which works in cooperation with the regional transportation authority, Knoxville Area Transit (KAT). In order to make public transit more convenient and conducive to transporting groceries, the KAT has installed racks in buses so riders have a place to store groceries. For more information “Good Laws, Good Food: Putting Local Food Policy to Work for Our Communities”, Harvard Food Law and Policy Clinic (July 2012) at p. 17. Available online: <http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/FINAL-LOCAL-TOOLKIT2.pdf>.

<sup>40</sup> For instance, Berkeley, CA, has adopted measures to encourage pedestrian-friendly commercial areas that fully service neighbourhood needs.

<sup>41</sup> Seattle, WI includes, in its Comprehensive Plan, (and Community Garden resolution, and P-Patch Strategic Plan), community gardens in the evaluation of priority use of city surplus property (Resolution 28610:

[http://eatbettermovemore.org/sa/policies/pdf/text/Seattle\\_p\\_patch.pdf](http://eatbettermovemore.org/sa/policies/pdf/text/Seattle_p_patch.pdf)), and co-locates community gardens with other City priority projects, including affordable housing and public transit (Resolution 30194: [http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=comprehensive+plan&S2=\(%40dir%3E20000000%3C20050000\)+OR+\(%40DTA%3E20000000%3C20050000\)+OR+\(%40DTS%3E20000000%3C20050000\)+OR+\(%40DTSI%3E20000000%3C20050000\)+OR+\(%40DTMY%3E20000000%3C20050000\)+OR+\(%40DATE%3E20000000%3C20050000\)+OR+\(%40dtf%3E20000000%3C20050000\)&Sect4=AND&l=0&Sect1=IMAGE&Sect2=THESON&Sect3=PLURON&Sect5=LEGI2&Sect6=HITOFF&d=LEGA&p=2&u=%2F~public%2Flegisearch.htm&r=326&f=G](http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=comprehensive+plan&S2=(%40dir%3E20000000%3C20050000)+OR+(%40DTA%3E20000000%3C20050000)+OR+(%40DTS%3E20000000%3C20050000)+OR+(%40DTSI%3E20000000%3C20050000)+OR+(%40DTMY%3E20000000%3C20050000)+OR+(%40DATE%3E20000000%3C20050000)+OR+(%40dtf%3E20000000%3C20050000)&Sect4=AND&l=0&Sect1=IMAGE&Sect2=THESON&Sect3=PLURON&Sect5=LEGI2&Sect6=HITOFF&d=LEGA&p=2&u=%2F~public%2Flegisearch.htm&r=326&f=G)). Seattle's comprehensive plan is a 20-year policy plan which incorporates several goals and policies for the promotion and support of community gardens and which requires at least one community garden for every 2,500 households. See: City of Seattle Comprehensive Plan, (January 2005), online:

[http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@proj/documents/Web\\_Informational/cos\\_004485.pdf](http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@proj/documents/Web_Informational/cos_004485.pdf)

<sup>42</sup> *Supra* note 27. See also “Live Where You Go: Encouraging Location Efficient Development in Ontario”, (2012), online: <http://www.pembina.org/pub/2354>

<sup>43</sup> *Ibid.*

<sup>44</sup> In San Diego, the city attracted a large grocery store to open in a revitalized area next to a major bus terminal. Likewise, in Washington, D.C., a full-service supermarket opened in a former shopping district destroyed during the 1968 riots, and is located above a transit station. See: McCann, Barbara, “Community Design for Healthy Eating: How Land Use and Transportation Solutions Can Help” (2006), online

<http://bitsandbytes.ca/sites/bitsandbytes.ca/files/sites/default/files/communitydesignhealthyeating.pdf>

<sup>45</sup> For example, the farmers' market at the Fruitvale Transit Village in Oakland, Calif., which located in a primarily Latino neighbourhood. The market is located above the Bay Area Rapid Transit (BART) station and is operated by Unity Council, a community development corporation aimed at helping low-income residents in the primarily Latino Fruitvale community. In order to increase accessible of fresh food to low-income individuals, the Council has worked to ensure that government-issued food assistance vouchers and other forms of payment are accepted at the market. See: Community Design for Healthy Eating (*supra* note 30) at 19 - 20, online:

<http://bitsandbytes.ca/sites/bitsandbytes.ca/files/sites/default/files/communitydesignhealthyeating.pdf>

<sup>46</sup> For example, some transit agencies have established new routes, or increased service in order to improve service to grocery stores for low-income residents. Hartford, Conn., established a L-Tower bus route, a cross-town route that cut travel time in half for low-income residents trying to reach jobs and stores, particularly a major supermarket. Unfortunately funding has since been reduced, and service cut back. This is a concern for food access, as a survey on the impact of the route found that ridership increased by 100% within the first year, and that 33% of riders were using the route to access the major grocery store. Similarly, the transit agency in Austin, Texas runs a grocery store shuttle bus service. See: Community Design for Healthy Eating (*supra* note 30) at 13, online:

<http://bitsandbytes.ca/sites/bitsandbytes.ca/files/sites/default/files/communitydesignhealthyeating.pdf>

<sup>47</sup> For example, in the 1990's, the transit agency in Boulder, Colo., began to design simple, appealing new bus routes based, in large part, on where riders said they wanted to go (including to grocery stores). The first route was named the Hop. Six other new routes (Skip, Jump, Bound, Dash, Bolt and Stampede) are now part of the “community transit network” that has increased transit ridership in Boulder by 500 percent since 1990. See: Community Design for Healthy Eating (*supra* note 30) at 14, online:

<http://bitsandbytes.ca/sites/bitsandbytes.ca/files/sites/default/files/communitydesignhealthyeating.pdf>

<sup>48</sup> *Supra* note 30 at 18 - 19.

<sup>49</sup> *Ibid* at 17 - 18.

<sup>50</sup> *Supra* note 12 at 4.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Supra* note 1 at 11.

<sup>53</sup> *Supra* note 29.

<sup>54</sup> *Ibid.*

<sup>55</sup> “Community Health and Food Access: The Local Government Role,” ICMA, (2006) at 6, online: [http://icma.org/en/icma/knowledge\\_network/documents/kn/Document/7598/Community\\_Health\\_and\\_Food\\_Access\\_The\\_Local\\_Government\\_Role](http://icma.org/en/icma/knowledge_network/documents/kn/Document/7598/Community_Health_and_Food_Access_The_Local_Government_Role)

<sup>56</sup> Dept' of City of Dev., Milwaukee Citywide Policy Plan 123 (March 2010), online: <http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/planning/plans/Citywide/plan/Natural.pdf> See also:

“*Supra* note 16 at 35.

<sup>57</sup> *Supra* note 30 at 9.

<sup>58</sup> *Supra* note 28 at 40.

<sup>59</sup> *Supra* note 29.

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> *Supra* note 28 at 38.

<sup>63</sup> *Supra* note 29.

<sup>64</sup> *Ibid.*

<sup>65</sup> *Supra* note 30.

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*

<sup>68</sup> For instance, in Philadelphia there are two state level financing tools for supermarket development. The Fresh Food Financing Initiative uses a \$20-million infusion of public funds to leverage an \$80-million financing pool for supermarket development. The second tool has extended to supermarkets the “First Industries” economic stimulus program which offers grants, loans and loan guarantees to agriculture-related businesses. Similarly, Nevada, has instituted a temporary tax incentive to encourage grocery stores to locate in the southern part of the state. For more information, see: McCann, Barbara, “Community Design for Healthy Eating: How Land Use and Transportation Solutions can Help” (2006), online:

<http://www.policyarchive.org/handle/10207/bitstreams/21598.pdf>

<sup>69</sup> *Supra* note 28 at 40.

<sup>70</sup> *Ibid.*

<sup>71</sup> *Supra* note 29.

<sup>72</sup> *Supra* note 30 (Citing Mair J, Pierce M and Teret S., “The Use of Zoning to Restrict Fast Food Outlets: A Potential Strategy to Combat Obesity”, Washington: Center for Law & the Public’s Health at Georgetown & Johns Hopkins Universities, 2005, online:

<http://www.publichealthlaw.net/Zoning%20Fast%20Food%20Outlets.pdf>)

<sup>73</sup> Los Angeles Ordinance No. 176543, file 05-0200, 2005. Other examples include: Berkeley, Carlsbad, and San Francisco. See: <http://crec.berkeley.edu/Evaluating%20the%20Performance%20of%20PODs.pdf>

See: Community Design for healthy Eating; “Planning Regional Food Systems: A Guide for Municipal Planning and Development in the Greater Golden Horseshoe”, (*supra* note 28) at 40.

<sup>74</sup> Cosgrove, Sean, Toronto Food Policy Council, “Community Gardening in Major Canadian Cities: Toronto, Montreal and Vancouver Compared”, online: <http://www.cityfarmer.org/canadaCC.html>

<sup>75</sup> *Supra* note 11 at 36.

<sup>76</sup> In addition to the examples provided above, Portland, OR has a community gardens program which receives municipal support. Although the Portland Community Gardens program started in 1974, it has been strengthened in recent years due to significant municipal support. The City of Portland and Multnomah County Climate Action Plan identified food and agriculture as an area of focus, and Objective 15 of the plan seeks to increase the consumption of local food, including by developing or facilitating “1,000 new community garden plots.” As a result, the Portland Community Gardens Initiative was established to achieve the Climate Action goal, and there are 40 gardens in the program portfolio. A program requirement is that gardeners must use organic gardening methods. In 2012, more than 1,300 plots are being rented by City to Portland residents, engaging approximately 3,000 community gardeners. “Promoting Urban Agriculture: Zoning”, Sustainable Cities Institute at the National League of Cities. Available online:

[http://www.sustainablecitiesinstitute.org/view/page.basic/report/feature.report/Report\\_Zoning\\_Urb\\_Ag](http://www.sustainablecitiesinstitute.org/view/page.basic/report/feature.report/Report_Zoning_Urb_Ag) See also:

Seattle’s Department of Neighborhoods website: <http://www.seattle.gov/neighborhoods/ppatch/> For additional information on the Community Garden Program, see “Community Garden Facts” on the City of Portland , Oregon, Parks and Recreation website: <http://www.portlandoregon.gov/parks/article/388440>

<sup>77</sup> Neighborspace came into existence as a result of research in the mid-1990’s that indicated that Chicago ranked 18<sup>th</sup> out of 20 cities in the ratio of open space acres to population. For more information on Neighbourspace, see: <http://neighbor-space.org/about/history-of-neighborspace/>

<sup>78</sup> Note Neighborspace also acquires and protects small parks, natural areas, river edges, and scenic landscapes.

<sup>79</sup> Neighborspace – Community Managed Open Space website: <http://neighbor-space.org/about/history-of-neighborspace/>

<sup>80</sup> Ville de Montréal, “Community Gardens”, online:

[http://ville.montreal.qc.ca/portal/page?\\_pageid=5977,68887600&\\_dad=portal&\\_schema=PORTAL](http://ville.montreal.qc.ca/portal/page?_pageid=5977,68887600&_dad=portal&_schema=PORTAL) See also: World Urban Forum 2006, “Montreal’s Community Gardening Program”, online:

[http://ville.montreal.qc.ca/pls/portal/docs/page/librairie\\_en/documents/Montreal\\_Community\\_Gardening\\_Program.pdf](http://ville.montreal.qc.ca/pls/portal/docs/page/librairie_en/documents/Montreal_Community_Gardening_Program.pdf) See also: City of Victoria Community Gardens Policy (2005), Appendix A: Canadian Models of Municipal Support for Community Gardening, online:

<http://www.victoria.ca/assets/Departments/Parks~Rec~Culture/Parks/Documents/community-garden-policy.pdf>

<sup>81</sup> Resolution No. 28610

<sup>82</sup> Resolution No. 30194 – Adopting the P-Patch Program 2000-2005 Strategic Plan

<sup>83</sup> Ordinance No. 104475 establishes the P-Patch-purchase of the original Picardo farm for the “... City’s Community Garden Program (“P-Patch” Program)...”; Ordinance No. 117100 provides \$650,000 for P-Patches city-wide (used for Thomas St); and the 2008 Parks and Open Space Levy authorizes 2 million for the development of P-Patches and community gardens. For more information see: “P-Patch Community Gardening Program: Factsheet” online at:

<http://www.seattle.gov/neighborhoods/ppatch/documents/FactSheetnewcombinedversion2012.pdf>

<sup>84</sup> “Promoting Urban Agriculture: Zoning”, Sustainable Cities Institute at the National League of Cities. Available online:

[http://www.sustainablecitiesinstitute.org/view/page.basic/report/feature.report/Report\\_Zoning\\_Urb\\_Ag](http://www.sustainablecitiesinstitute.org/view/page.basic/report/feature.report/Report_Zoning_Urb_Ag) For more information see Seattle’s Department of Neighborhoods website:

<http://www.seattle.gov/neighborhoods/ppatch/> For additional information see the P-Patch Detailed Fact Sheet, available online:

<http://www.seattle.gov/neighborhoods/ppatch/documents/FactSheetnewcombinedversion2012.pdf>

<sup>85</sup> *Supra* note 1 at 27.

<sup>86</sup> Mougeot, Luc J.A., “Growing Better Cities: Urban Agriculture for Sustainable Development”, Ottawa:

International Development Research Centre, 2006, online: <http://idl-bnc.idrc.ca/dspace/bitstream/10625/30554/12/122461.pdf> See also “Food Connects Us All: Sustainable Local Food in Southern Ontario” Metcalf Foundation, (2008), online: <http://metcalfoundation.com/wp-content/uploads/2011/05/food-connects-us-all.pdf> See also the report by Office de Consultation Publique de Montréal, “Etat de l’Agriculture Urbaine à Montréal” (2012)”, online:

[http://ocpm.qc.ca/sites/default/files/rapport\\_au.pdf](http://ocpm.qc.ca/sites/default/files/rapport_au.pdf) This report was submitted to the Municipal government in October 2012. It details the state of urban agriculture in Montreal and provides recommendations, including suggested regulatory amendments, produced via the public consultation.

<sup>87</sup> Boston, MA also has established a community garden subdistrict (Zoning Code, Article 33, s. 33-8 - Boston’s Open Space Subdistricts, accessible online:

<http://www.bostonredevelopmentauthority.org/pdf/ZoningCode/Article33.pdf>). Likewise, Chattanooga, TN has created an urban agricultural zone that includes as permitted uses “[a]gricultural uses such as the growing of crops, dairying, grazing, the raising and maintaining of poultry and livestock, horticulture, viticulture, floriculture, forest, and woods” (Zoning Code, c. 38, Division 28-A1 – Urban Agricultural Zone, accessible online:

[http://www.chcrpa.org/Projects/Zoning\\_Studies/South\\_Broad\\_Zoning\\_Study/PDF/40\\_Chapter\\_38\\_ZONING.pdf](http://www.chcrpa.org/Projects/Zoning_Studies/South_Broad_Zoning_Study/PDF/40_Chapter_38_ZONING.pdf)). See also: Land Use and Planning Policies to Support Community and Urban Gardening”, Public Health Law and Policy, (2008), online:

[http://norcalheal.cnr.berkeley.edu/docs/CommunityGardenPolicyInventory\\_PHLP.pdf](http://norcalheal.cnr.berkeley.edu/docs/CommunityGardenPolicyInventory_PHLP.pdf) Note hits chart provides an overview of various Canadian and US jurisdictions, and the type of policy used to achieve the specified objective of supporting community and urban gardens.

<sup>88</sup> Zoning Code, Part III, Title VII, c. 336 – Urban Garden District, online:

[http://www.mayorsinnovation.org/pdf/Cleveland\\_CG\\_zoning\\_ord.pdf](http://www.mayorsinnovation.org/pdf/Cleveland_CG_zoning_ord.pdf)

<sup>89</sup> Including Chicago, IL, Seattle, WA, and Portland, OR

<sup>90</sup> *Supra* note 16 at 39. See: Urban Agriculture: Rooftop Gardening, Boston redevelopment Authority (April 11, 2012), available at:

[www.bostonredevelopmentauthority.org/pdf/PlanningPublications/Urban%20Agriculture%20MEMO\\_Rooftop%20Agriculture,%20Module%203\\_4.11.12.pdf](http://www.bostonredevelopmentauthority.org/pdf/PlanningPublications/Urban%20Agriculture%20MEMO_Rooftop%20Agriculture,%20Module%203_4.11.12.pdf)

<sup>91</sup> For instance, the Milwaukee Zoning Ordinance permits the “raising of crops or livestock” in residential districts (see Subchapter 5 Residential Districts, Chapter 295-503 Uses), online:

<http://city.milwaukee.gov/ImageLibrary/Groups/ccClerk/Ordinances/Volume-2/CH295-sub5.pdf> Similarly, Sacramento has removed zoning barriers to planting fruits and vegetables in residential front lawns (Sacramento Ordinance No. 2007-025). “Promoting Urban Agriculture: Zoning”, Sustainable Cities Institute at the National League of Cities. Available online:

[http://www.sustainablecitiesinstitute.org/view/page.basic/report/feature/report/Report\\_Zoning\\_Urb\\_Ag](http://www.sustainablecitiesinstitute.org/view/page.basic/report/feature/report/Report_Zoning_Urb_Ag) See also “Land Use and Planning Policies to Support Community and Urban Gardening”, Public Health Law and Policy, (2008), online: [http://norcalheal.cnr.berkeley.edu/docs/CommunityGardenPolicyInventory\\_PHL.Pdf](http://norcalheal.cnr.berkeley.edu/docs/CommunityGardenPolicyInventory_PHL.Pdf)

<sup>92</sup> City of Toronto website, “Green Roof By-Law”: <http://www.toronto.ca/greenroofs/overview.htm> See also: “Planning Regional Food Systems: A Guide for Municipal Planning and Development in the Greater Golden Horseshoe”, at 40.

<sup>93</sup> Seattle’s comprehensive plan is a 20-year policy plan which incorporates several goals and policies for the promotion and support of community gardens and which requires at least one community garden for every 2,500 households. The comprehensive plan for growth in Seattle is supported by the city’s P-Patch Community Gardening Program<sup>93</sup> which oversees 75 community gardens equalling approximately 23 acres, and serving 4,400 urban gardeners.<sup>93</sup> Two million in funding will be applied between 2009 - 2013 for the creation at least 15 new and expanded gardens.<sup>93</sup> P-Patch community gardens are open to all community members include both individual garden plot rentals collectively gardened space. While garden plot fees are applied, fee assistance is provided to those unable to pay. Garden sales are enabled through the P-Patch Market Garden Program and a “giving garden” program including “food bank plots” which have been established to provide fresh produce to those in need. Seattle’s P-Patch Program also facilitates and partners on other programming including youth gardening which educates young kids about cooking, nutrition, and gardening, giving them life skills to ensure their families and communities are healthy and well - fed into the future. For more information see: For more information see: Village Commons, Recreation Facility and Community Garden Goal listed in Appendix B in “Seattle’s Comprehensive Plan: Toward a Sustainable Seattle”, Seattle Department of Planning and Development, (January, 2005), online:

[www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@proj/documents/Web\\_Informational/cos\\_004510.pdf](http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@proj/documents/Web_Informational/cos_004510.pdf). See also: Seattle Department of Neighbourhoods, “P-Patch Community Gardening Program: What is Community Food Security”: <http://www.seattle.gov/neighborhoods/ppatch/communityfoodsecurity.htm>

<sup>94</sup> *Supra* note 29.

<sup>95</sup> Nashville Commercial and Non-Commercial Community Gardening Zoning Ordinance – Amends Title 17 of Nashville’s zoning ordinance. See: American Planning Association, “Policy Guide on Community and Regional Food Planning” (2007)

<sup>96</sup> “Providence Tomorrow: The Interim Comprehensive Plan”, (Dec 2007) Objective BJ 6 (G), online: <http://www.planning.ri.gov/comp/Providence.pdf> Note also that the Comprehensive Plan recognizes the “vital role” urban agriculture currently plays in Providence, using yards, vacant lots and other under-used land for food production and open space. Under one of its Sustainable Environment Objectives (Providence Tomorrow: The Interim Comprehensive Plan”, (Dec 2007) Objective SE 2, (E), online:

<http://www.planning.ri.gov/comp/Providence.pdf>) it includes the establishment of “guidelines to promote appropriately-scaled, hand-tended agriculture, providing neighborhood access to healthy, affordable foodstuffs and promoting stewardship and remediation of land”. It also includes under Neighborhood Economic Development the objective of identifying and preserving “areas suitable for urban agriculture” (“Providence Tomorrow: The Interim Comprehensive Plan”, (Dec 2007) Objective BJ 5, (B) (4) online:

<http://www.planning.ri.gov/comp/Providence.pdf>

<sup>97</sup> *Supra* note 29.

<sup>98</sup> *Supra* note 1 at 27.

<sup>99</sup> For example, programs such as “Plant A Row for the Hungry” (“Plant a Row”), which was launched in 1995 by the Garden Writers Association in the United States, provide support to herb and vegetable gardening at the local level, and coordinate local food collection systems and donations to food agencies. In total, since 1995, The Plant A Row program has, thanks to its volunteer gardeners, successfully produced donations of 18 million pounds of produce, totalling over 72 million meals. Similar initiatives have taken root in Ontario.<sup>99</sup> “Plant a Row, Grow a Row, Un Rang pour Ceux Qui ont Faim” is an Ontario Trillium Foundation supported project, which incorporates the strengths of initiatives throughout the US and Canada, and which aims to encourage other communities to start their own initiative. Several communities across Canada have started a Plant a Row,

Grow a Row Initiative. Participating Ontario communities include: Barrie, Borden, Dryden, Hamilton, London, Mississauga, Oakville, Ottawa, Orleans, Oshawa, Pickering/Ajax, Whitby, Port Hope, Sault St. Marie, St. Catherine's, Toronto, Windsor Wingham. The Grow-A-Row program started in Winnipeg, Manitoba in 1986; the Plant a Row for the Hungry was developed by the Garden Writers Association of America and launched in the US in 1995; in Quebec, the campaign "un rang pour ceux qui ont faim" was initiated by La Presse, the television program Fleurs and Jardins, and the Quebec Food Bank Federation. Resources on how to grow a vegetable garden are available online, as well as recipes and information on how to start a community campaign. For more information: <http://www.growarow.org/about.htm> Similarly, the nonprofit organization EarthWorks' Urban Orchards, now no longer active, worked with local groups to plant, maintain, and harvest fruit and nut-bearing trees, shrubs, and vines for community consumption on public land. EarthWorks planted more than 800 trees and shrubs in its publicly accessible urban orchards. The Boston Natural Areas Network hopes to be able to continue Earthworks' Urban Orchard project. See: the Boston Natural Areas Network website, online: [http://www.bostonnatural.org/trees\\_and\\_orchards.htm](http://www.bostonnatural.org/trees_and_orchards.htm) For information on Earthworks' see: "Making Urban Agriculture a Planning Priority", The Diggable City Project, (Portland), online: <http://www.portlandoregon.gov/bps/article/122592>

<sup>100</sup> San Francisco has more than 40 gardens operated on city-owned property. See: "Establishing Protections for Community Gardens", National Policy and Legal Analysis Network (NPLAN), online: <http://growit.umd.edu/CommunityGardens1/CommunityGardensAdvocateFactSheet.pdf>. See also: [www.sfgov.org/site/recpark\\_page.asp?id=27048](http://www.sfgov.org/site/recpark_page.asp?id=27048). See also: "Establishing Land Use Protections for Community Gardens", a policy package created by NPLA which includes model land use planning and zoning provisions. It is available online at: <http://changelabsolutions.org/childhood-obesity>

<sup>101</sup> City of Victoria, Community Gardens Policy, Sept 2005 (revised March 31, 2009), online: <http://www.victoria.ca/assets/Departments/Parks-Rec-Culture/Parks/Documents/community-garden-policy.pdf> See also: "Land Use and Planning Policies to Support Community and Urban Gardening", Public Health Law and Policy, (2008), online: [http://norcalheal.cnr.berkeley.edu/docs/CommunityGardenPolicyInventory\\_PHLP.pdf](http://norcalheal.cnr.berkeley.edu/docs/CommunityGardenPolicyInventory_PHLP.pdf)

<sup>102</sup> *Supra* note 29.

<sup>103</sup> *Supra* note 85. For more information see Seattle's Department of Neighborhoods website: <http://www.seattle.gov/neighborhoods/ppatch/> For additional information see the Greenthumb website: <http://www.greenthumbnyc.org/about.html> Note that other cities have, and are trying, to take similar steps. Detroit, with over 60,000 publicly owned vacant parcels, and a vibrant urban agriculture movement, hopes to obtain government support to expand opportunities to use vacant land provided by public agencies for urban agriculture. For examples of innovation to this end see: <http://www.sustainableplant.com/2012/08/detroit-community-garden-features-repurposed-shipping-crates/> For more information about urban agriculture in Detroit, contact: Michigan State University Extensions Program: website: [http://msue.anr.msu.edu/topic/info/community\\_gardening](http://msue.anr.msu.edu/topic/info/community_gardening) phone: 1-888-678-3464

<sup>104</sup> *Supra* note 30.

<sup>105</sup> The BNAN keeps a publicly accessible list of community gardens as well as resources for urban gardeners: <http://www.bostonnatural.org/cgFind.htm>

<sup>106</sup> Subsection 3(10) of the *Planning Act* requires a five year review of the PPS to determine whether revisions are needed. The current PPS came into effect on March 1, 2005, and the five-year review began March 1, 2010. While the Review and amendments to the PPS are not yet final, Draft Policies were released in September of 2012 for public comment. To access the Draft PPS Policies, see the Ministry of Municipal Affairs and Housing website: <http://www.mah.gov.on.ca/Page9990.aspx#2.4>. For information on the public comments received pursuant to the public consultation undertaken for the PPS Review, see the *Environmental Bill of Rights* Environmental Registry Posting: <http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTA5NjA4&statusId=MTc2MDUy&language=en>. To access the September 2012 *Environmental Bill of Rights* Environmental Registry Proposal for public input on the PPS Draft Policies see: <http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTE3NDQz&statusId=MTc1Nzgw>

<sup>107</sup> The proposed Draft Policies have also incorporated explicit recognition of human health and include language about building strong and 'healthy' communities. (Draft PPS Policies, Part V, 1.0)

<sup>108</sup> Draft PPS Policy 1.1.

<sup>109</sup> The Draft PPS Policies also include, as a way to support long-term economic prosperity, 'providing opportunities to support local food, and promoting the sustainability of agri-food and agri-business by protecting

agricultural resources, and minimizing land use conflicts' (Draft PPS Policy 1.7.1) Also a positive addition is the recognition of the wise use and management of agricultural resources over the long term as a key provincial interest (Part IV of the Draft Policies: "Vision for Ontario's Land Use Planning System").

Similarly, in considering expansion of settlement areas onto agricultural lands, an improvement in the proposed PPS Draft Policies is the requirement that alternative locations are considered (Draft PPS Policy 1.1.3.8).

<sup>110</sup> Part V, Draft PS Policy 1.1.3.2 (Settlement Areas): "Vision for Ontario's Land Use Planning System"

<sup>111</sup> Draft PPS Policy 1.2.1.

<sup>112</sup> Draft PPS Policy 1.2.2

<sup>113</sup> Note that subject on which the government should plan in a coordinated way include (a) managing and/or promoting growth and development; (b) economic development strategies; (c) natural heritage, water, agricultural mineral and cultural heritage and archaeological resources; (c) infrastructure, multimodal transportation systems, public service facilities and waste management systems; (e) ecosystem, shoreline, watershed, and Great Lakes related issues; (f) natural and human-made hazards; (g) population, housing and employment projections, based on *regional market areas*; and (h) addressing housing needs in accordance with provincial policy statements such as the Ontario Housing Policy Statement.

<sup>114</sup> Draft PPS Policy 1.5.1.

<sup>115</sup> Draft PPS Policy 1.5.1 (d)

<sup>116</sup> Draft PPS Policy 1.5.1 (c).

<sup>117</sup> The PPS Draft Policies state that natural heritage features 'should' be protected (see policy 2.1.2); aggregate and mineral extraction resources 'shall' be protected and conserved (see policies 2.5.2 through 2.5.3.1). For additional information on the effect of the PPS Review on the food and farming sector, and to access submissions on the PPS Review by the food and farming sector, see Sustain Ontario's website:

<http://sustainontario.com/2012/12/07/13518/news/the-provincial-policy-statement-review>

<sup>118</sup> The Diggable City, a Portland State University graduate planning workshop project prepared for the City of Portland, Oregon, produced a land inventory containing specific sites of publicly owned properties to assess opportunities to expand community gardens and other forms of urban agriculture. This project has educated the community on the significance of urban land as a resource for food production in Portland. For more information, see: "Policy Guide on Community and Regional Food Planning", American Planning Association (2007): <http://www.planning.org/policy/guides/adopted/food.htm>

<sup>119</sup> *Supra* note 30. The Food Policy Council of Toronto wrote a report in 1999 recommending that the city set a goal to grow 25 percent of its own fruits and vegetables by 2025 (Toronto Food Policy Council, 1999). Status?? The report included an inventory of current farms in the city and made the following policy recommendations related to land use: Expand agricultural sites by encouraging community gardening, retaining agricultural zoning designations and increasing land zoned for agriculture; Preserve existing agricultural land through programs to keep land in farming. Suggested strategies include: the purchase of land and development rights, conservation real estate, land designation or dedication, community and conservation land trusts (private and public), and purchase of conservation easements on title; Take inventory of brownfield sites where urban agriculture could be practiced and encourage development of a "food eco-industrial park," with infrastructure to support greenhouses, hydroponics and other types of farming.

<sup>120</sup> Among municipalities which have attempted to incorporate food access issues into their land use and transit planning systems, Toronto has made significant headway in terms of developing food planning documents (Community Design for Healthy Eating at p. 21, online:

<http://bitsandbytes.ca/sites/bitsandbytes.ca/files/sites/default/files/communitydesignhealthyeating.pdf>).

Similarly, Waterloo's *Healthy Community Food System Plan*, prepared by Public Health and released as part of the *Regional Growth Management Strategy*, includes a buffer zone to contain sprawl and protect agricultural land, identifies five priority action including working with the Planning division to address agricultural policy issues, and determining the feasibility of mobile farmers' markets and incubator kitchens. A food system roundtable was also established, and is designated to oversee the implementation of the local food systems plan (Lauren Baker et al., "Menu 2020: Ten Good Food Ideas for Ontario", Metcalf Foundation (June 2010) at 43-44).

<sup>121</sup> *Supra* note 1 at 26.

<sup>122</sup> *Ibid* at 27.

<sup>123</sup> *Ibid* at 10-12.

<sup>124</sup> *Ibid* at 9.

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<sup>125</sup> Planning and Community Health Research Centre (via website of the American Planning Association), “Food Systems”: <http://www.planning.org/nationalcenters/health/food.htm>

<sup>126</sup> *Supra* note 16 at. 30.