

# POLICY DRAFTING COMPANION GUIDE

## Turning Your Community Vision into Local Healthy Food Law or Policy

The purpose of this resource is to provide an introduction to common elements of laws and policies, share examples of how these elements can be used to support local healthy food access, and offer recommended practices in the drafting process for those who may be exploring or entering the world of local policymaking, or for those who want to advocate for healthy food access policies.

### Policy Development Considerations

Beyond understanding the key elements of a law or policy, there are a number of important considerations in crafting an effective law or policy:

#### *Considerations for Equity*

- **Advance racial and health equity in all policies.**<sup>1</sup> It is important to think through how a policy may impact health outcomes and health inequities, particularly for Black people, Indigenous people, and all people of color. Policies should be designed to reduce racial health inequities and improve health for all. This requires intentional, conscious decision-making.

#### **Examples**

Racial equity tools can aid local governments in advancing racial and health equity. For example, Milwaukee County in Wisconsin has committed to “use racial equity tools to evaluate the impact of decisions on black and brown communities” in developing its budget, policies, processes, and procedures.<sup>2</sup> Some examples of racial equity tools include:

- [The Praxis Project: Working Principles for Health Justice and Racial Equity](#)
- [City of St. Paul, Minn.: Racial Equity Assessment Toolkit](#)
- [Government Alliance on Race and Equity: Racial Equity Toolkit](#)
- [Policy Link Racial Equity Index](#)
- [Voices for Racial Justice: Racial Equity Impact Assessment Tool](#)
- [Montgomery County, Md.: Racial Equity and Social Justice Legislative Review Tool](#)
- [Washington DC: Racial Equity Toolkit](#)

- **A law or policy is only as good as its inputs.** [HFPP’s Authentic Resident Engagement](#) resource has suggestions for working with community residents to understand issues, identify solutions, and develop relevant laws and policies guided by community.<sup>3</sup>

## Considerations for Drafting

- **Understand how preemption may limit local authority.** Local authority may be [limited by state or federal law](#) and as a result, the scope of local action available in a specific area may be narrowed. Consulting with an attorney, whether a municipal lawyer or legal technical assistance provider, is important in order to identify potential concerns around preemption and figure out how to navigate them as much as possible.
- **Word choice is important.** Every word matters and should be thoughtfully chosen. For example, even simple words like “shall” and “may” determine whether there is an obligation to do something or just an option. For this reason, policy drafters should work with their jurisdiction’s government attorneys, or another attorney, to confirm that all language has the meaning they intend for it to have.
- **Avoid ambiguity and be precise.** It is critical that both policymakers and the public understand the law, what it intends to do, and the duties it imposes. A law or policy that is vague or confusing may lead to compliance or enforcement problems and is more vulnerable to legal challenges. It is helpful to be aware that there are common approaches courts use to interpret and resolve ambiguities in a law that can help you avoid unintentionally creating ambiguity.<sup>4</sup> These “canons of statutory construction” may also be adopted by state law.
- **Review state law requirements.** In addition to defining the scope of local authority over certain issues (see the discussion on preemption above), state law may have procedural requirements for how local ordinances are enacted and establish penalty systems for certain types of local laws, such as licensing laws.

## Considerations for Collaboration

- **Seek out legal expertise.** Attorneys can assist with finding and resolving legal issues raised by the policy and identifying local laws that may need to be repealed or amended to avoid undermining or conflicting with your policy.
- **Recruit a champion from among your local policymakers if possible, but be strategic.** A local champion, such as a city council member, city manager, or public health office staff member, can make a huge difference in a policy effort. When and how to connect with local officials, and whether they are willing and able to serve as a champion, will depend on the political culture and the nature of the issue. Food policy issues usually raise many political issues, so identifying potential champions requires strategic thinking and timing. The city or county attorney’s office also plays a key role; an attorney will usually review legislative language for policymakers and will make recommendations about the feasibility and legality of the policy. Anticipating their potential concerns is important.

## Structure of Local Laws & Policies

Below are common elements of a local healthy food law or policy.<sup>5</sup> Every law and policy is different and may not include all of these elements or be in the order in which they are listed below.

[Title.](#)

[Section X. Findings.](#)

[Section X. Purpose/Intent.](#)

[Section X. Definitions.](#)

[Section X. Main Provisions.](#) (Main provisions will usually be titled descriptively, according to the topic they address or what they propose to do. See below for examples.)

[Section X. Exemptions.](#)

[Section X. Enforcement.](#)

[Section X. Implementation.](#)

[Section X. Evaluation.](#)

Jurisdictions that codify their laws may separate and organize these elements so that definitions, enforcement details, implementation details, and purpose/intent language for an entire chapter or title are located in a single part of the code. However, even when that is the case, drafters should consider how all of these elements will work together and propose a draft bill that clearly identifies how existing law may need to be amended to integrate the proposed legislation.

## Common Elements of Local Laws & Policies

This resource explores common elements of a local healthy food law or policy. This guide should be used for the purposes of understanding general structure and drafting considerations and not for legal guidance.<sup>6</sup> Seek out legal technical assistance for drafting a law or policy tailored to your community.

### TITLE

*Many laws and policies include a title to briefly describe the subject matter of the law. Using a descriptive title can make the policy easier to find using search terms and promote comprehension.*

#### Recommended Practices

- Make the title a clear and descriptive phrase or sentence so that readers can quickly understand what the ordinance is about.

#### Examples

This title briefly describes the topic addressed by the ordinance:  
“An Ordinance Regarding a Healthy Food Incentive Program”

From [Birmingham, Ala., Ordinance No. 17-23 \(Mar. 7, 2017\)](#)

This section title within the ordinance describes exactly what the ordinance does:  
“Foods Containing Industrially-Produced Trans Fat Restricted”

From [Cleveland, Ohio, Code § 241.42 \(current through Feb. 25, 2021\)](#)

### FINDINGS

*Findings are brief statements of facts that outline the issue being addressed and help readers understand why the law or policy is needed. These statements may include statistics, data, references to studies or government reports, authoritative statements supporting the policy from reputable and recognized public health authorities, and other types of supporting evidence or information. Consider directly citing the sources of the findings statements.*

#### Recommended Practices

- Tailor findings to the community. Ensure that the information presented is specific to the community as much as possible (e.g., include information about the city or region, in addition to or instead of national data). The findings should also address values important to the community and reflect diverse sources of information derived from both published research and community members’ lived experiences.
- Ensure that the evidence or experts you rely on reflect the diversity of experiences within the community and the populations that will be affected by the policy.
- Use evidence-based findings and practice-based evidence that support the purposes of the policy.
- Consider how the findings can help anticipate political, bureaucratic, and legal challenges. Think strategically about what information should be included and from what sources, as well as the framing or wording.

## Examples

The findings section in this ordinance is written using “whereas” statements and describes the reasons for and benefits of urban gardens. These findings take a holistic approach to framing how urban gardens promote health that supports coalition building across groups with different focus areas. Additionally, the last statement anticipates potential challenges:

WHEREAS, urban gardens provide access to nutritious foods produced with fewer carbon resources than those shipped to the community from other regions; and

WHEREAS, urban gardens can improve nutrition, physical activity and community engagement for a neighborhood and its residents and provide nutritional benefits to the community at large; and . . .

WHEREAS, consideration is given to minimize the potential negative impacts onto adjacent properties from urban agriculture practices.

From [Laredo, Tex., Ordinance No. 2017-0-045 \(Apr. 20, 2017\)](#)

In this sugary drinks excise tax ordinance, the findings and purpose are combined into one section that outlines the specific local need for the policy and describes what the law will do:

African American death rates from DM2 [type 2 diabetes] are five times higher than San Francisco’s overall rate. DM2 is the fifth leading cause of death in SF (which is an underestimate, since heart disease, the leading killer, is often a result of DM2); DM2 reduces the lifespan of San Franciscans by eight to ten years.

As recently as 2010, nearly a third of children and adolescents in San Francisco were obese or overweight; and in San Francisco, 46.4% of adults are obese or overweight, including 61.7% of Hispanics and 51.3% of African Americans. Nationally, childhood obesity has more than doubled in children and tripled in adolescents in the past 30 years; in 2010, more than one-third of children and adolescents were overweight or obese. Every additional sugary beverage consumed daily can increase a child’s risk for obesity by 60%; and one or two sugary beverages per day increases the risk of Type II diabetes by 26%.

Sugary beverages, including sweetened alcoholic drinks, represent nearly 50% of added sugar in the American diet, and, on average, 11% of daily calories consumed by children in the U.S.

Seven percent of San Franciscans are diagnosed with diabetes, and it is estimated that the City and County of San Francisco pays over \$87 million for direct and indirect diabetes care costs.

From [San Francisco, Cal., Business & Tax Code, art. 8, § 551 \(current through Mar. 25, 2021\)](#)

### PURPOSE/INTENT

*The purpose or intent section is a statement or set of statements that explain the goal(s) the law or policy is intended to achieve. This section should explain the municipality’s objective in enacting the policy, and can help settle questions of interpretation if they arise.<sup>7</sup> Sharing the objective of a policy also promotes transparency between policymakers and the public.*

### Recommended Practices

- Make sure that the purpose/intent section addresses the need described in the findings section.
- Consider how the intent section can help anticipate political, bureaucratic, and legal challenges. Carefully consider the legal context and related issues implicated by the law or policy. Convey the law or policy’s intent with this legal context in mind so that the intent is clear and a legally impermissible intent is not inferred.
- If there are ways that the policy combats racial and health inequities or prioritizes historically marginalized populations, explain this in the purpose/intent section.

## Examples

This ordinance's purpose section refers back to the findings, shares a specific objective for the policy, and is codified in the municipal code:

Findings and Purpose. Recognizing the dangers of childhood obesity and the connection between this epidemic and sugar-sweetened beverages, the purpose of this Chapter is to promote healthy lifestyles in the children and youth of the City of Stockton and to combat the childhood obesity epidemic by limiting the beverages offered in meals targeted to children and youth to healthy choices.

From [Stockton, Cal., Ordinance No. 2016-06-07-1502 \(June 7, 2016\)](#)

This section combines findings and purpose and identifies priorities for the city, explains that a sugar sweetened beverage tax would raise revenue to address these priority areas, and cites the city's taxing authority:

The City finds and declares that the expansion of access to healthy and affordable food, closing the food security gap, promoting healthy nutrition choices, reducing disparities in social, developmental, and educational readiness and learning for children, assisting high school graduates to enter college, and expanding services for the birth-to-five population and their families are of the utmost importance to creating a thriving and livable city for all of the people of Seattle. Therefore, through this ordinance, the City intends to exercise its taxing authority, as granted by the Washington State Constitution and as authorized by the Washington State Legislature, to raise general revenue for the City and to use that revenue to provide broad based public benefits for residents by funding programs that achieve these purposes.

From [Seattle, Wash., Ordinance No. 125324 \(June 6, 2017\)](#)

## DEFINITIONS

*Definitions are detailed explanations of the key terms in a law or policy. Definitions make laws more effective, efficient, and clear. They can close loopholes and make clear what falls in and outside the scope of a law, making court challenges less likely. A definitions section eliminates the need to explain terms in the substantive sections of the law or policy and improves readability. Definitions can also build trust between governments and communities by increasing certainty and predictability for those impacted by a law.<sup>8</sup>*

### Recommended Practices

- Define all key terms in the policy, especially words or phrases that may mean different things to different people. Make sure to think about whether the term has a specialized or ordinary meaning in the context.
- Use all the defined terms in the policy. Do not define terms that are not used in the policy.
- Don't include substantive provisions in the definitions section. These should come later, in the next section.
- Write definitions broadly enough to encompass new or emerging concepts or products without being overly vague.
- Ensure that definitions are as consistent as possible with definitions that already exist in the local code. In cases where a term is defined differently than existing definitions used by the locality, make sure the different definition is intentional and necessary for the purposes of the new law.

## Examples

This definitions section includes relevant terms, and broadens the application of the law by including “other vendors”:

*Food trucks.* A type of mobile vendor which is a motorized and operationally self-contained single vehicle equipped with facilities for cooking and selling food.

*Food trailers.* A type of mobile vendor which is designed to be towed on public roads and having an enclosed area for storage, handling or preparation of food.

*Other vendors.* Mobile vendors are not limited to operating out of a food truck or trailer.

From [Fayetteville, Ark., Code § 178.04\(B\)](#) (current through Feb. 25, 2021)

This definitions section includes terms that have an ordinary meaning and also a more specific meaning in the context of the chapter (“director”), cross-references other specific definitions in the code (“urban agriculture incentive zone”), and refers to definitions elsewhere in the municipal code to clarify that they also apply here:

“Director” means the director of planning, building and code enforcement, or his or her designee. . . .

“Urban agriculture incentive zone” means the area designated by the city pursuant to the Urban Agriculture Incentive Zones Act (California Government Code Section 51040 et seq.) to promote urban agricultural use of otherwise vacant, unimproved, and blighted property parcels by providing a tax incentive for properties that are engaged in an urban agricultural use. . . .

Where a word or phrase is not defined in this part, but is defined in Chapter 20.200 of Title 20 of this Code, the definitions set forth in Chapter 20.200 shall govern the construction of the provisions of this title, except where the context otherwise requires.

From [San Jose, Cal., Code § 4.88.020](#) (current through Feb. 25, 2021)

### MAIN POLICY PROVISIONS<sup>9</sup>

*This section is the “heart” of the law—it explains what will be required, prohibited, regulated, or otherwise affected by the new law. Each general provision should be stated in separate sections, and, if necessary, in subsections according to an order that is likely to be easy to follow for most readers.*

#### Recommended Practices

- Ensure that the obligations, standards, requirements, and restrictions established by the law or policy are practical and feasible; otherwise, it will not be effective.
- Consider possible negative unintended consequences of the policy. Although it may be impossible to anticipate all consequences before the policy’s enactment (which makes after-the-fact evaluation all the more important, as discussed below), tailoring the provisions to minimize anticipated negative unintended consequences as much as possible can make a policy more effective and reduce inequitable impacts.

## Examples

The main policy provision section of this Healthy Foods Incentive Ordinance is divided into two subsections applying different nutritional standard requirements to incentive items with restaurant meals and incentive items with single food items and beverages:

Sec. 471.4. Incentive Items with Restaurant Food.

(a) Meals. A Restaurant may give away a free Incentive Item in combination with the purchase of a Meal only if the Meal meets the following nutritional standards:

- (1) Calories. Less than six hundred (600) calories;
- (2) Sodium. Less than six hundred and forty milligrams (640 mg) of sodium;
- (3) Fat. Less than thirty-five percent (35%) of total calories from fat, except for fat contained in nuts, seeds, peanut butter or other nut butters, or an individually served or packaged egg, or individually served or packaged low-fat or reduced fat cheese;
- (4) Saturated Fat. Less than ten percent (10%) of total calories from saturated fats, except for saturated fat contained in nuts, seeds, peanut butter or other nut butters, an individually served or packaged egg, or individually served or packaged low-fat or reduced fat cheese;
- (5) Trans Fat. Less than 0.5 grams of trans fat;
- (6) If the Meal includes a Beverage, the Beverage must meet the criteria set forth below in (b).
- (7) Fruits and Vegetables. Contains 0.5 cups or more of fruits and 0.75 cups or more of vegetables for a Meal unless the Meal is served as breakfast and consists of food typically considered to be breakfast items. Breakfast meals must contain 0.5 cups of fruit or vegetables.

(b) Single Food Items and Beverages. A Restaurant may give away a free Incentive Item in combination with the purchase of a Single Food Item or Beverage only if the Single Food Item or Beverage meets the following nutritional standards:

- (1) Fat. Less than thirty-five percent (35%) of total calories from fat;
- (2) Sugars. Less than ten percent (10%) of calories from added caloric sweeteners.

From [San Francisco City & Cty., Cal., Code §§ 471.1–471.9](#) (current through Mar. 24, 2021)

### EXEMPTIONS

*This section contains exemptions, exceptions, or exclusions that are necessary to achieve the purpose of the policy and not included elsewhere in the policy. Exemptions can help tailor a policy to a more specific purpose and make the intent of a law more clear. However, it is important to write exemptions carefully. Overly broad or poorly drafted exemptions can undermine the policy's intent or create inequitable consequences for different populations.*

Exemptions, exceptions, or exclusions may also be found in other areas of a policy, such as within a definitions section or directly in main policy provisions. In deciding where to explain any necessary exemptions in a policy, you should take into consideration where people will most likely look for it and what makes sense for the specific context.

## Recommended Practices

- Limit exemptions to those that are necessary and write them as narrowly as possible.
- Avoid including exemptions that undermine the law’s stated purpose or intent. Such exemptions undermine the effectiveness of the law.

### Examples

This law’s exemptions are specific and narrow and use a term (“accessory use groceries”) included in the chapter’s definitions section:

The following are exempt from the requirements of this chapter:

A. Accessory use groceries.

B. Gasoline filling stations, licensed under § 149-6A and having not more than 300 square feet of retail sales floor area.

From [Passaic, NJ, Code § 162-4](#) (current through Feb. 25, 2021)

This law exempts “any gardener or farmer, or market gardener selling or offering for sale the produce of his or her farm or garden” from a licensing requirement for “peddlers.”

See [Holly, Mich., Code 7-112-03](#) (current through Mar. 23, 2021)

This law exempts food donation facilities from the requirement of having a Food Establishment Permit, among other exemptions.

From [Whitman County, Wash., Code § 8.05.090\(DD\)](#) (current through March 23, 2021)

## ENFORCEMENT

*A process for enforcement can make a policy more effective, by providing it with “teeth.” However not all laws require enforcement, such as laws that enable or allow something. In other cases, enforcement may not be appropriate or may need to be carefully tailored to ensure that any associated penalties do not create inequitable impacts.<sup>10</sup> Where enforcement is appropriate, this section should identify the parties responsible for enforcement and outline the enforcement procedures, penalties or fines that may be imposed, relief that may be obtained, and any appeal process.*

## Recommended Practices

- Reduce the need for enforcement by engaging with the community to ensure the policy correctly identifies community issues and offers appropriate solutions; providing education and outreach to ensure people understand the new legal obligations; and offering training to ensure people receive assistance in compliance.<sup>11</sup>
- In determining whether to include an enforcement section, assess whether enforcement mechanisms are appropriate, considering the community context, nature of the offense, and whether enforcement may disproportionately impact certain populations, especially people of color.
- Some enforcement mechanisms are more likely to result in inequitable outcomes:
  - Fines and fees have a disparate impact on low-income individuals and disproportionately impact people of color—and this results in negative health impacts.<sup>12</sup> Instead, consider financial hardship exemptions or use sliding-scale or proportional fines, which may also be more appropriate for deterring large corporate violators.
  - Criminal sanctions may also result in inequitable enforcement that harms communities of color.<sup>13</sup> Instead, consider education, diversion programs, or tiered enforcement schemes that reserve criminal liability for multiple, serious



violations. However, be aware of compounding consequences that could also result in criminal sanctions, such as failure to pay certain fines or appear in court, exacerbating patterns of systemically racist mass incarceration.

- Consider who the enforcement provisions intend to target. Enforcement provisions targeted towards bad actors at the root of systemic problems are often more effective, and more appropriate, than enforcement targeted at individual victims of these systems.<sup>14</sup> For example, in the commercial tobacco context, this means targeting commercial tobacco or e-cigarette manufacturers and distributors, and not individual consumers.
- Consider whether the people or agencies enforcing the policy will have the capacity, tools, and resources they need, including training and funding, to ensure that a policy is enforced fairly and consistently.<sup>15</sup>
- Avoid creating enforcement schemes that result in selective enforcement.<sup>16</sup> Selective enforcement can include disproportionate enforcement in different communities or against different groups of people, often negatively impacting people of color. Selective enforcement can also occur due to the mechanism chosen to identify the need for enforcement. For example, rather than relying on a complaint-based system, a locality could allocate funding to conduct community-wide training, education, and compliance inspection for all organizations and communities affected by a law.

## Examples

This law requiring restaurants to offer a healthier default beverage in children's meals uses a tiered enforcement scheme that requires a written warning for a first violation and notice of the penalties for future violations and directs enforcement at the restaurant operator:

A violation of this chapter is an infraction, provided, however, that the first violation shall result in a written warning notice of violation to the operator of the store that a violation has occurred and the penalties that will apply for future violations. A second violation within a five-year period from the notice of violation shall be punishable by a fine of not more than \$250.00. For a third or subsequent violation within a five-year period, the fine shall be not more than \$500.00. A restaurant shall not be found to have committed a violation under this chapter more than once during an inspection visit.

From [Wilmington, Del., Code § 5-2\(c\)\(3\)](#) (current through Mar. 16, 2021)

This law enforcing mobile vendor requirements does not include financial penalties; penalties are limited to suspension or revocation of permit.

See [Fayetteville, Ark., Code § 178.04\(H\)](#) (current through Mar. 23, 2021)

This law restricting trans fat use in food service establishments is enforced by the city's Department of Health, which is authorized by the city's health code to seek voluntary compliance through notice and education in lieu of imposing civil, criminal, or licensing penalties. However, permitting rather than requiring non-compulsory means of enforcement, creates a risk of selective, and potentially inequitable, enforcement:

In lieu of enforcement of this Code by way of prosecution, recovery of civil penalties, revocation of permits, seizure, embargo and condemnation, and other compulsory means, the Department may seek to obtain the voluntary compliance with this Code by way of notice, warning or other educational means; this section does not, however, require that such non-compulsory methods be used before proceeding by way of compulsory enforcement.

From [NYC, NY, Health Code §§ 3.13 & 81.08](#) (current through Mar. 23, 2021)

## IMPLEMENTATION

*The implementation section identifies the individual or entity responsible for implementing the law and outlines steps to disseminate and publicize the policy, such as creating rules and developing forms, training materials, and educational initiatives. This section is an opportunity to think through what is necessary to put the policy into effect. An adequate implementation plan can make a policy more effective, and can promote transparency by letting impacted populations know what to expect when.*

There are also technical aspects of implementation that are necessary for the law to take effect and these aspects vary by jurisdiction. For example, it is common for a jurisdiction to have laws that dictate when the effective date will be and a process for providing public notice of the new law. Some jurisdictions may compile their laws in a municipal code organized by subject matter and chronology. This process is referred to as codification and also includes formatting, editing, and removing repealed laws, to result in one up-to-date, efficient, and accessible body of law.<sup>17</sup>

### Recommended Practices

- Include an effective date that both responds to urgent needs in a timely way and provides adequate time for implementation and changes needed to comply. Be aware that there may be jurisdictional requirements that apply to when a law may take effect.
- The implementation plan should ensure that all populations will be informed about and engaged in the policy.
- Consider including training for affected communities on how to comply with the policy. Education can reduce the need for enforcement and help impacted populations to partner with enforcement entities, rather than placing them in opposition.

### Examples

This ordinance establishing [Good Food Purchasing Standards](#) requires a baseline assessment, ongoing public review of implementation, and a community advisory council to support implementation of the ordinance:

4-9.2. Requirements for Departments and Agencies. . . . City departments and agencies that purchase or procure food or food services shall take the following steps in support of Good Food Purchasing:

1. . . . [C]ommunicate Good Food Purchasing Standards to appropriate and selected suppliers . . . and request them to share data that will help the department or agency complete a baseline Good Food Purchasing assessment of food procurement practices . . .

4. Commit to reasonable public review, robust analysis and full transparency during implementation of the Good Food Purchasing Standards, which shall include but not be limited to:

a) The release of the baseline assessment by each respective department or agency for public comment at least 30-days prior to the public hearing provided for in following subsection; and

b) Hold a public hearing to receive public testimony on the baseline no later than 90 days after completion of the assessment.

4-9.4. Community Advisory Council. The head of the respective department or agency shall convene a Community Advisory Council comprised of community stakeholders . . . to support departments and agencies in the process of implementation . . . and ongoing as requested by departments and agencies.

From [Boston, Mass., Ordinance No. 0139, § 2 \(Mar. 13, 2019\)](#)

This county vending machine nutrition policy requires suppliers to provide detailed biannual reports to aid the county department of public health in evaluating the implementation of the policy and requires an annual report from the department to the county board of supervisors:

This act provides that the mayor may issue rules to implement the act:

**Rules.** The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act.

From [DC Law 18-353, §§ 401-402 \(April 7, 2011\)](#)

This ordinance provides technical instructions for the repeal of inconsistent laws and publication in the city code, provides that the ordinance take effect as provided by law, and authorizes city staff to make clerical changes to codification numbering as needed:

- A. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.
- B. This Ordinance shall be part of the Jersey City Code as though codified and fully set forth therein. The City shall have this Ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This Ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Counsel be and hereby are authorized and directed to change any chapter numbers, article numbers and section numbers in the event the codification of this Ordinance reveals that there is conflict between those numbers and the existing code.

From [Jersey City, NJ, Ordinance No. 16.091 \(Jun. 17, 2016\)](#)

## EVALUATION

*The evaluation section outlines the timeline and process to assess the effectiveness of the policy, including how it meets the goals, as well as providing a framework for policy revision. A plan for evaluation helps determine how well a policy is working to meet its goals and whether changes are needed. Evaluation will require appropriate funding and must take into consideration staff capacity to perform evaluations.*

### Recommended Practices

- Create a transparent, actionable evaluation plan with clear time frames and regular reporting periods. Allowing public access to evaluation information can make a policy more transparent and accountable to the community.
- Identify indicators of success related to reducing inequities to use for evaluation.
- Consider how the community and different stakeholders will be engaged in evaluation. Make sure that evaluation minimizes or avoids creating burdens for community members.
- Build a monitoring process into the policy, if appropriate, again without creating unnecessary burden for community members.
- Evaluate implementation—and if applicable, enforcement of the policy—to ensure the policy is not resulting in negative unintended or inequitable impacts. Policies may provide for modification or rescission if proven inequitable, ineffective, or detrimental to their purpose.<sup>18</sup>

## Examples

This ordinance establishing [Good Food Purchasing Standards](#) requires the city to produce annual progress reports to be made available to the public:

Participating City departments and agencies shall provide annual progress reports, including compliance data, to the City Council. Such progress reports shall be made readily available to the public online and in print by request.

From [Boston, Mass., Ordinance No. 0139, § 1 at 4-9.5 \(Mar. 13, 2019\)](#)

This county vending machine nutrition policy requires suppliers to provide detailed biannual reports to aid the county department of public health in evaluating the implementation of the policy and requires an annual report from the department to the county board of supervisors:

County-contracted suppliers will provide the Los Angeles County Department of Public Health (DPH) biannually a list of nutrition compliant products (with nutrition facts) being sold in machines. Suppliers are also required to provide biannual sales records by vending machine and stocked item, food production records, and itemized price lists. DPH will use this data to periodically monitor the implementation and impact of the policy by assessing trends in consumption, sales, and compliance. DPH will report back to the Board of Supervisors annually.

From [Los Angeles, Cal., Board of Supervisors Policy Manual § 3.115 \(current through April 15, 2021\)](#)

The ordinance requires the Director of the Department of the Environment to perform a “waste stream analysis” every two years. “Waste stream analysis” is included in the definitions section to give more clarity around this evaluation process:

County-contracted suppliers will provide the Los Angeles County Department of Public Health (DPH) biannually a list of nutrition compliant products (with nutrition facts) being sold in machines. Suppliers are also required to provide biannual sales records by vending machine and stocked item, food production records, and itemized price lists. DPH will use this data to periodically monitor the implementation and impact of the policy by assessing trends in consumption, sales, and compliance. DPH will report back to the Board of Supervisors annually.

From [Los Angeles, Cal., Board of Supervisors Policy Manual § 3.115 \(current through April 15, 2021\)](#)

The Director shall implement a pilot food composting program in the County by July 1, 2014 and shall evaluate the food composting program for expansion on a County-wide basis by December 31, 2015. The Department shall expand the food scrap composting program to fully utilize the expansion of the Gore Composting System and the Organics Composting Facility.

From [Prince George’s County, Md., Code § 21-142\(i\) \(current through Feb. 25, 2021\)](#)

## Conclusion

Local law and policy can be an important tool to increase access to healthy food for communities. Using precise language, considering the consequences of enforcement, and including a method to evaluate your policy’s performance over time can make local laws and policies stronger. Drafting in a way that is clear, forward-thinking, and equitable—after a process of engaging the community to figure out what issues are important and how to address them—will give your policy the best chance to achieve what you intend: making healthy food accessible for everyone.

## ENDNOTES

<sup>1</sup> To learn more, the Public Health Institute has a “Health in All Policies” guide for state and local governments. Linda Rudolph, Julia Caplan, Karen Ben-Moshe & Lianne Dillon, *Health in All Policies: A Guide for State and Local Governments* (2013), [http://www.phi.org/wp-content/uploads/migration/uploads/files/Health\\_in\\_All\\_Policies-A\\_Guide\\_for\\_State\\_and\\_Local\\_Governments.pdf](http://www.phi.org/wp-content/uploads/migration/uploads/files/Health_in_All_Policies-A_Guide_for_State_and_Local_Governments.pdf) (“[T]he Health in All Policies approach seeks to institutionalize considerations of health, equity, and sustainability as a standard part of decision-making processes across a broad array of sectors.”).

<sup>2</sup> See Milwaukee County, Wisc., Code § 108.03(2)(e)(3) (current as of June 16, 2021).

<sup>3</sup> For an example of integrating community engagement into developing policy, see Urban Sustainability Directors Network, *Guide to Equitable Community-Driven Climate Preparedness Planning* (May 2017), [https://www.usdn.org/uploads/cms/documents/usdn\\_guide\\_to\\_equitable\\_community-driven\\_climate\\_preparedness\\_high\\_res.pdf](https://www.usdn.org/uploads/cms/documents/usdn_guide_to_equitable_community-driven_climate_preparedness_high_res.pdf). For a high-level framework for community participation in policy, see Sherry Arnstein, *Ladder of Citizen Participation*, 35 *J. Am. Planning Ass’n.* 216 (1969), <https://organizingengagement.org/models/ladder-of-citizen-participation/>.

<sup>4</sup> See Congressional Research Service, *Statutory Interpretation: Theories, Tools, and Trends* (Apr. 5, 2018), <https://crsreports.congress.gov/product/pdf/R/R45153>.

<sup>5</sup> This template is based on the Standard Ordinance Template, LMC Model Ordinance created by the League of Minnesota Cities and available on their website at <https://www.lmc.org/media/document/1/standardordinancetemplate.docx>.

<sup>6</sup> The Healthy Food Policy Project does not provide legal representation or legal advice, nor does it lobby.

<sup>7</sup> See Chris Micheli, *Are Legislative Findings and Declarations Necessary in Legislation?*, *California Globe*, last consulted Feb. 9, 2021, <https://californiaglobe.com/section-2/are-legislative-findings-and-declarations-necessary-in-legislation/>.

<sup>8</sup> See *Drafting Definitions in Local Healthy Food Access Policies*, Healthy Food Policy Project, <https://healthyfoodpolicyproject.org/drafting-definitions>.

<sup>9</sup> Although the other sections described in this guide are typically titled as they are here, it’s uncommon to see a section titled “Main Policy Provisions” in a policy. Instead, the substantive sections are usually titled according to the topic each addresses or contains, arranged, as mentioned above, in a logical order.

<sup>10</sup> See *Focusing on Equity and Inclusion*, Public Health Law Center, <https://www.publichealthlawcenter.org/sites/default/files/resources/Focusing-on-Equity-and-Inclusion-2018.pdf>.

<sup>11</sup> Changelab Solutions, *Equitable Enforcement to Achieve Health Equity*, at 27-29 (June 2020), [https://www.changelabsolutions.org/sites/default/files/2020-06/Equitable\\_Enforcement\\_to\\_Achieve\\_Health\\_Equity-GUIDE-ACCESSIBLE\\_FINAL\\_20200610.pdf](https://www.changelabsolutions.org/sites/default/files/2020-06/Equitable_Enforcement_to_Achieve_Health_Equity-GUIDE-ACCESSIBLE_FINAL_20200610.pdf).

<sup>12</sup> *Id.* at 7, 11, 26.

<sup>13</sup> *Id.* at 10, 26-27, 29-30.

<sup>14</sup> *Id.* at 18-19.

<sup>15</sup> For one idea, read about how the city of Seattle developed a new food safety rating system: Healthy Food Policy Project, *Case Studies: How an Academic Partnership and Community Engagement Helped Design a Food Safety Rating System in Seattle & King County*, <https://healthyfoodpolicyproject.org/case-studies/seattle-wa>.

<sup>16</sup> Changelab Solutions, *Equitable Enforcement to Achieve Health Equity*, at 25-26 (June 2020), [https://www.changelabsolutions.org/sites/default/files/2020-06/Equitable\\_Enforcement\\_to\\_Achieve\\_Health\\_Equity-GUIDE-ACCESSIBLE\\_FINAL\\_20200610.pdf](https://www.changelabsolutions.org/sites/default/files/2020-06/Equitable_Enforcement_to_Achieve_Health_Equity-GUIDE-ACCESSIBLE_FINAL_20200610.pdf).

<sup>17</sup> See *Why Codify?*, American Legal Publishing Corporation, <https://www.amlegal.com/codification-services/codification>.

<sup>18</sup> Changelab Solutions, *Equitable Enforcement to Achieve Health Equity*, at 21-22, [https://www.changelabsolutions.org/sites/default/files/2020-06/Equitable\\_Enforcement\\_to\\_Achieve\\_Health\\_Equity-GUIDE-ACCESSIBLE\\_FINAL\\_20200610.pdf](https://www.changelabsolutions.org/sites/default/files/2020-06/Equitable_Enforcement_to_Achieve_Health_Equity-GUIDE-ACCESSIBLE_FINAL_20200610.pdf).