

# ZONING FOR URBAN AGRICULTURE

## ZONING FOR URBAN AGRICULTURE: A GUIDE FOR UPDATING YOUR CITY'S LAWS TO SUPPORT HEALTHY FOOD PRODUCTION AND ACCESS

### Introduction

This resource summarizes zoning laws that promote and support agriculture in urban municipalities and highlights examples of strategies from around the country. Additionally, the resource furthers the Healthy Food Policy Project's goal of identifying local policy options that support access to healthy food.<sup>1</sup> In order to provide the most current understanding of the national landscape and allow for comparison of practices and identification of potential barriers, this resource focuses specifically on urban agriculture zoning laws that local governments have passed within the last ten years (2009-2019).

Cities and other municipalities usually have a number of individual zoning laws that make up a larger collection of laws. These individual zoning laws are sometimes called ordinances. However, it should be noted that when an entire group of zoning laws are enacted at the same time, the entire collection is sometimes also referred to as a single ordinance. For consistency in this resource we will refer to a city's collection of zoning laws as its zoning code and the individual provisions within that collection as zoning laws. Zoning codes are often contained as subsections, chapters, or titles within larger city codes that contain other collections of law related to other areas of municipal governance.

This guide includes an overview of the authority of local governments to develop zoning designations, zoning's influence on urban agriculture practices, an analysis of suggested practices and equity considerations, as well as an overview of the zoning law amendment process. This resource is intended to be used by planners, local policy makers, and food policy councils and is aimed at cities that have not yet taken an in-depth look into their zoning codes. These cities may benefit from including the types of laws suggested below in their zoning codes to encourage urban agriculture activities. However, it is important to note that there are many cities innovating in ways that are not covered in this resource and that it does not intend to be a fully comprehensive list of the most innovative examples, but rather it can serve as a foundation for cities to start from when looking at improving their zoning laws for urban agriculture.

### Background

#### LOCAL GOVERNMENT AND LAND USE REGULATION

The federal government is limited in its scope of authority under the U.S. Constitution, leaving states with a broad range of powers under the 10<sup>th</sup> Amendment.<sup>2</sup> Included in states' authority is police power—the ability to create laws to protect the health, safety, and general welfare of the public.<sup>3</sup> The authority to regulate the use and development of land comes from states' police power. As such, any land use regulation must be consistent with protecting public health, safety, and welfare, or could be declared unconstitutional if challenged.<sup>4</sup>

Police power belongs to state governments, but most states delegate the authority to municipal governments through either (a) constitutional or legislative authority to enact home rule provisions, or (b) enabling statutes authorizing zoning and other land use regulations.<sup>5</sup> The United States Constitution grants no powers to local governments, and they depend solely on their state to give them authority to govern.<sup>6</sup> Therefore, in order for a local government to regulate land use, the state constitution or state legislature must explicitly give it that power.<sup>7</sup>

## HOME RULE

Home rule provisions provide for broad municipal autonomy in governance. Home rule provisions authorize municipal governments to establish systems of self-government, typically through charters, so long as they do not violate or conflict with state and federal law. States can provide for municipal home rule authority via state constitution or statute.

## DILLON'S RULE

Dillon's rule is the legal principle that generally governs municipalities that do not have home rule authority. Under Dillon's Rule, local governments have only the powers that are expressly delegated to them by the state, including powers that are incident to, or can be necessarily or fairly implied from, those expressly delegated powers.

It is also important to understand how local governments receive land use regulation power from the state in order to suggest appropriate changes to zoning codes that conform to the enabling statute and authority granted by the state, and do not conflict with applicable state and federal laws.<sup>8</sup> A local law is preempted if it conflicts with a state or federal law.<sup>9</sup>

Land use plans, which are sometimes components of larger comprehensive plans, can help guide cities in exercising their delegated police powers by prioritizing long-term goals for future development decision-making.<sup>10</sup> These plans can support urban agriculture by encouraging beneficial development of land and promoting positive outcomes for the city.<sup>11</sup> Land use plans can also be used by local governments to develop policies and regulations that encourage healthy food production for residents. These plans are often seen as "roadmaps," guiding land use laws towards specific objectives established by the municipality.<sup>12</sup> Not all states require these plans, although most municipalities are given sufficient authority by the state to establish a land use plan, which can help guide zoning to meet the community's needs.<sup>13</sup>

Zoning is one of the tools used to implement land use plan objectives.<sup>14</sup> Once a land use plan is adopted by a municipality, any zoning laws generally have to be consistent with the objectives of the comprehensive plan.<sup>15</sup>

## URBAN AGRICULTURE

Differences in scale, production method, location, and stated goal of the operation can make it difficult to define urban agriculture.<sup>16</sup> The United States Department of Agriculture (USDA) has not defined urban agriculture and does not report data and statistics on urban farming activities in the United States, so national data is lacking.<sup>17</sup> For purposes of this resource, urban agriculture means "the growing, processing, and distribution of plant and animal products- by and for the local community- within an urban environment."<sup>18</sup> This resource also relies on the definition of "urban" used by the Bureau of the Census which includes "all territory, population, and housing units located in urbanized areas in places of 2,500 or more inhabitants."<sup>19</sup> Production methods and scale of urban agriculture can vary from subsistence growing (growing for personal or family consumption) to recreational community gardening on a small scale to large-scale commercial enterprises.<sup>20</sup> Growing can take place in a variety of locations, from empty public land to rooftops and indoor closed-loop aquaponics systems.<sup>21</sup> In the United States, motivations for encouraging urban agriculture include not just food security but also development of local and regional food systems, reduction of food waste, community building, increasing the amount of open green space in cities, and raising property values.<sup>22</sup>

## How Zoning Affects Urban Agriculture

Zoning is a regulatory tool that local governments can use to control what is allowed on an area of land within the city.<sup>23</sup> Separating land into zones prevents nuisances and allows local governments to have more control when regulating different types of land use.<sup>24</sup> Most zoning takes place at the city or town level, but county or regional laws may also regulate some of the same uses.<sup>25</sup> Historically, zoning has been focused on separating uses of land that were deemed incompatible, such as urban land use from agricultural use.<sup>26</sup> In regards to agriculture use, rural localities may worry that zoning may restrict agricultural productivity and reject zoning altogether.<sup>27</sup> Urban areas are now more often being planned with mixed-use zoning in order to integrate commercial, residential, institutional, and agricultural uses.<sup>28</sup>

As they are currently written, zoning codes frequently restrict or prohibit agricultural activities, especially in residentially zoned areas.<sup>29</sup> Updating zoning codes to reduce restrictions on agricultural uses and provide guidance on proper use has the potential to increase residents' access to healthy food in the area.<sup>30</sup> Allowing residents to grow their own food or encouraging small growers to produce food in food-insecure areas can increase access to healthy food.<sup>31</sup> By ensuring that food production is properly regulated and managed, local governments can create a mixed-use land pattern that incentivizes healthy food production in all zones while ensuring community concerns and quality of life issues are addressed.<sup>32</sup>

## Zoning to Encourage and Support Urban Agriculture

A crucial step in increasing food access and urban agriculture activities is to remove any express barriers that exist in the current zoning code. In addition, cities should consider enabling language to confirm and memorialize which urban agricultural activities are allowed and where. While zoning codes are often not written to specifically prohibit urban agricultural activities, the absence of express permission may deter potential growers. Cities with delegated authority to do so may make these changes through zoning code amendments<sup>33</sup> or by rewriting and replacing their entire zoning code.<sup>34</sup>

The following is a list of laws for your city to consider including in your zoning code, if they are not already included. They correspond to zoning code related policies identified in the University of Wisconsin-Madison's Food Policy Audit, which is based on the Center for Resilient Cities Food Policy Audit Tool.<sup>35</sup>

The analysis in this resource was undertaken through use of portions of the audit sections taken from the Food Policy Audit Tool. For more information on the methodology of the research for this project, please visit [this link](#).

Both tools provide a relatively easy way for local governments to survey their zoning codes and policies, programs and practices to identify areas where changes may be needed. After auditing your city's code, you may use the practices and suggestions below to help guide zoning changes that support urban agriculture activities.

### PROVIDE CLARITY ON AGRICULTURAL TERMS

Without clear definitions of agriculture terms, the zoning code may discourage urban food production through ambiguous language and unclear regulations. Potential growers may have a difficult time discerning what is allowed and refrain from producing food due to fear of a possible violation or fine.<sup>36</sup>

**Action:** Decide what types and scale of agriculture should be allowed. Clearly define each term, using the [Drafting Definitions](#) resource on the HFPP website as a baseline for discussing definitions. See below for examples.

Austin, Texas	Boston, Massachusetts	Seattle, Washington
Austin Code of Ordinances Chapter 25-2, section <a href="#">25-2-7</a> clearly defines various agricultural uses including aquaponics, horticulture and indoor crop production. <sup>37</sup>	Boston Zoning Code <a href="#">section 89-2</a> provides a comprehensive list of land use term definitions (ex. ground level farm, roof level farm, coldframe, vertical agriculture). <sup>38</sup>	Seattle Municipal Code Title 23, section <a href="#">23.84A.002</a> defines "agricultural uses" to include a variety of activities including animal husbandry, aquaculture, community garden, horticulture and urban farm. <sup>39</sup>

### SPECIFY WHICH ZONES ALLOW URBAN AGRICULTURE

If agriculture is not enumerated as a specific legal use of land, growers may be hesitant to invest long-term or even start growing as they may feel they could be ordered to stop growing at any time. Naming urban agriculture as a permitted land use gives more permanence and authority to growers.<sup>40</sup>

**Action:** Include agriculture allowances in a permitted use table, ensuring legal protection of use and ease of understanding where agriculture activities are allowed. Permitted or conditional use allowances should specify if the grower needs to submit an application for a permit to the city.

For example, Golden, Colorado, Municipal Code section [18.26.030](#) requires a special use permit and explains what information is needed. However, extensive permit applications could be a barrier to some growers. If production is small-scale, not intensive, or not potentially disruptive to neighbors, consider allowing use without a permit requirement.

Austin, Texas	Detroit, Michigan
Austin's <a href="#">Zoning Use Summary Table</a> includes all defined agriculture terms in the permitted use table and clearly shows where uses are permitted. <sup>41</sup>	Detroit's <a href="#">Use Category Table (Detroit Code of Ordinance section 61-12-79)</a> includes agriculture terms in the permitted use table, clearly showing which zones allow a specific use. <sup>42</sup>

## ALLOW ON-SITE SALE OF PRODUCE WHENEVER POSSIBLE

Some zoning codes may not allow on-site sale of produce, which limits the ability for urban growers to sell produce with their neighbors and other consumers.<sup>43</sup> Specifically permitting on-site sale of farm products can increase access to healthy food to neighborhood consumers.<sup>44</sup>

**Action:** Allow on-site sale of produce or other agricultural products. On-site sales could also potentially be regulated in parts of the larger city code (often through the health department) outside of the zoning code. Because urban agriculture is a land use often established to promote access to foods, including mention of on-site sales in the zoning code is preferred.

Cedar Rapids, Iowa	Detroit, Michigan	Portland, Oregon	Kansas City, Missouri
Cedar Rapids Municipal Code section <a href="#">32.03.05 (E)(4)</a> specifies which products are allowed to be sold at a farm stand. <sup>45</sup>	1984 Detroit City Code section <a href="#">61-12-327</a> allows for the sale of products grown or produced on a farm or garden as an accessory use at a farm stand on the property of the urban garden or urban farm from which the farm product is grown or produced. <sup>46</sup>	Portland Municipal Code title 33, Planning and Zoning Code, section <a href="#">33.237.100 (B)</a> provides market garden onsite sales provisions for residential and non-residential zones and allows for sale of value-added products made from produce grown on-site. <sup>47</sup>	Kansas Municipal Code section <a href="#">88-312-02</a> allows, with some limitations, sale or donation of whole, uncut fresh food and/or horticultural products grown in home gardens, community gardens and on land managed under a community supported agriculture model. <sup>48</sup>

## ALLOW FOR SMALL-ANIMAL HUSBANDRY

Restrictions on keeping animals can limit residents from producing additional food besides fruits and vegetables, such as: milk, eggs, honey, and/or fish products. These may be products that consumers have difficulty finding locally, especially if living in an area without access to fresh and affordable food.<sup>49</sup>

Prohibiting animal-keeping can also disproportionately affect immigrant communities. For example, Muslim communities expressed a desire to produce Halal meats in Detroit, but community opposition to allowing animals in city limits means this is still not allowed in the zoning code.

**Action:** Allow for small-animal husbandry, while still considering and minimizing potential nuisance (odor and noise). This may take more discussion and compromise to reach agreements on what kinds of animals and how many are allowed.<sup>50</sup> Additionally, consider end-of-life management (slaughtering and meat processing) when updating the zoning to allow for small-animal husbandry to avoid public health and nuisance concerns.

Boston, MA allows a maximum of 6 hens and 2 beehives per lot. Under section 18.26.080, Golden, CO allows up to two miniature goats or pot-bellied pigs per household, public or private school, or public property. Additionally, Golden section 18.26.060 provides allowances for the slaughter of chickens out of public view.

Animal restrictions may also be regulated through the health department rather than the zoning code (for example, Baltimore, MD, Zoning Code section [14-307\(e\)](#) refers to regulations by the City Health Department and Department of Agriculture).

<b>Boston, Massachusetts</b>	<b>Cleveland, Ohio</b>
Boston Zoning Code section <a href="#">89-9</a> through <a href="#">89-11</a> sets provisions for keeping hens, bees, and using aquaponics, including use regulations, size and animal limitations, and setback requirements. <sup>51</sup>	Cleveland Land Use Code section <a href="#">347.02</a> creates different allowances for residential and non-residential animal-keeping (bees and small farm animals), including regulations on fencing, number and size, and license requirements. <sup>52</sup>

## ALLOW NON-COMMERCIAL AGRICULTURAL PRODUCTION

Commercial agricultural production is intended for sale, but not all urban growers want to sell their products.<sup>53</sup> Allowing residents to access land for non-commercial food production can increase their ability to grow food for themselves, their families, and communities.

**Action:** Specify where and how city and public land can be used for personal or community production.

Some cities support this effort through other city programs, rather than the zoning code specifically. For example, Seattle, Washington’s P-Patch program found at Seattle Municipal Code section [3.35.080](#) allows the city to lease land to community gardens for a period of five years.

<b>Cedar Rapids, Iowa</b>	<b>Golden, Colorado</b>	<b>Milwaukee, Wisconsin</b>
Cedar Rapids Zoning Ordinance chapter <a href="#">32.03.08</a> specifies community gardens are a permitted land use in parks and open space. <sup>54</sup>	Golden Municipal Code, title 18, Planning and Zoning, section <a href="#">18.28.030</a> allows community gardens in all community mixed use zone districts. <sup>55</sup>	Milwaukee Zoning Code, sub-chapter 9, section <a href="#">295-903-2-a</a> allows community gardens as a permitted use in institutional and park spaces. <sup>56</sup>

## ALLOW ACCESSORY STRUCTURES (I.E. GREENHOUSES, HOOP HOUSES, OTHER SEASON EXTENSION STRUCTURES AND DEVICES)

Incorporating allowances for these urban agriculture structures in the zoning code and removing regulatory barriers to build these structures can help urban farmers extend their growing season and produce more food.

**Action:** Clearly state where and when accessory structures are allowed.

Some cities require season extensions to follow city building code requirements. For example, Austin, Texas, requires greenhouses to comply with Building Code requirements for material and engineering design under Austin City Code section [25-12-3](#) which modifies 3102.1 of International Building Code (2015 Ed.) which the City adopted by reference. However, most cities regulate greenhouses and other season extensions in the zoning code.

<b>Minneapolis, Minnesota</b>	<b>Philadelphia, Pennsylvania</b>
Minneapolis Zoning Code section <a href="#">537.110</a> specifies greenhouses as an accessory use, and hoop houses and other season extension structures as an accessory use with size provisions. <sup>57</sup>	Philadelphia Municipal Code title 14, Zoning and Planning, chapter 14-600, Use Regulations, section <a href="#">14-609(9)</a> allows agricultural structures as an accessory and specifies size and lot requirements. For structures erected fewer than 180 days, the city waives the permit requirement. <sup>58</sup>

## OTHER STRATEGIES:

In addition to the strategies listed above, some municipalities have land use laws, either within their zoning code or separate from it, that go above and beyond the strategies discussed above. These provisions might offer financial incentives to property owners to use their land for food production, eliminate permitting or variance requirements for specific agricultural uses, encourage gleaning practices, or any other number of approaches. These are just a few examples of interesting policies that support urban agriculture from around the country.

<p style="text-align: center;"><b>Cleveland, Ohio</b></p> <p>Cleveland has established an Urban Garden District (found in sections <a href="#">336.01-336.05</a> of the City's Code of Ordinances) "to ensure that urban garden areas are appropriately located and protected." Unlike provisions in some other communities that may allow for, or even prioritize urban agriculture in some or all zoning districts, this law specifically limits community and market gardens as the only uses allowed in the Urban Garden District.<sup>59</sup></p>	<p style="text-align: center;"><b>Stafford County, Virginia</b></p> <p>The Stafford County Purchase of Development Rights Program allows the county to acquire land from a property owner and place a conservation easement on the land. This program is codified at Stafford County, Virginia, Code chapter <a href="#">22A</a> and exists in large part to preserve agricultural land from urban development pressures.<sup>60</sup></p>
<p style="text-align: center;"><b>New Rochelle, New York</b></p> <p>The City of New Rochelle has created six Downtown Overlay Zones to promote creative place-making and economic development.<sup>61</sup> The <a href="#">Table of Uses</a> for these zones allows for urban agriculture in all of them by right (i.e. without a special use permit). Moreover, the code allows greenhouses to exceed otherwise prescribed maximum height limits and gives even more size latitude to greenhouses that are dedicated to produce growing without the need for a zoning variance.<sup>62</sup></p>	<p style="text-align: center;"><b>Kansas City, Missouri</b></p> <p><a href="#">Article IV</a> of the City's Redevelopment Ordinance establishes a land bank and creates a land bank agency for the purpose of managing, selling, transferring and disposing of interests in real estate for various specified uses, which include, among other things, "urban agriculture, community gardens, or other similar uses consistent with healthy eating by residents, including restoring ground through alternative vegetative cover to build-back the soil for future use for food production."<sup>63</sup></p>
<p style="text-align: center;"><b>Madison, Wisconsin</b></p> <p>Madison's Edible Landscaping on City-Owned Lands Ordinance at section <a href="#">8.33</a> of the city's Code of Ordinances allows for growing and farming of edible landscapes--including plants that bear fruit, seeds, nuts, vegetables--on eligible city-owned land with a permit.<sup>64</sup></p>	<p style="text-align: center;"><b>Jersey City, New Jersey</b></p> <p>New Jersey's "Adopt A Lot" program, authorizes the City to lease vacant city land and "Open Space Land" shown to be in need of improvements to non-profit corporations and associations for gardening at a rate of just \$1.00 per year.<sup>65</sup> The program was enacted by New Jersey City Ordinance <a href="#">11-019</a>.</p>

## PROMOTING EQUITY IN THE ZONING CODE

Including allowances for urban agriculture will not increase the number of urban farms and amount of urban food production by itself.<sup>66</sup> Without specific goals and policies to ensure access to marginalized communities, urban agriculture can actually deepen inequities by benefiting community members with greater access to land and resources while leaving others out.<sup>67</sup> Furthermore, urban food production in a neighborhood does not always mean that the people in the area are able to access this locally produced food. In fact, some cities have seen an increase in urban vegetable production going to high-end restaurants, not to the communities in which the food is grown.<sup>68</sup> In order to ensure that all residents are able to grow or access agricultural products in their communities, cities must craft their zoning changes with equity in mind.

## INCLUDING EQUITY LANGUAGE IN THE ZONING CODE

Many cities do not include a stated goal of equity directly in their zoning code. However, Portland, Oregon's Zoning Code provides an example of how a city could do this. It states that the goal of allowing urban agriculture is to "increase affordable, healthful, food for all, especially for those who may have limited options because of location, access, or income."<sup>69</sup> This statement focuses on urban agriculture as a tool for food access, rather than a potential by-product. By specifically stating a goal of equitable access of food for priority populations, Portland creates a culture and understanding around urban agriculture in the City that attempts to mitigate some of the potentially negative effects of urban agriculture. It is important to consider the impact policies have on priority populations to ensure land use policies do not worsen gentrification through rising land prices.<sup>70</sup>

Additionally, Golden, Colorado, Municipal Code section [18.26.010](#) requires farmers' markets and neighborhood markets to accept SNAP benefits and sell a certain amount of SNAP-eligible foods. This inclusion ensures that locally produced food is available for people who may be unable to pay traditional market prices for local produce, as well as, creating an incentive for producers to work and sell in communities that need additional food suppliers. By including SNAP requirements, the City also tries to encourage sales to people who need the food, rather than sale for profit to high-end restaurants.

## ASSISTANCE WITH LAND ACCESS

Another barrier to equitable participation in urban agriculture is often land acquisition.<sup>71</sup> For farmers looking to grow commercially or on a larger scale, having a community garden plot on city land may not be enough to be productive or economically viable. Residents wanting to produce their own food may not have the financial means to pay for land rental fees. The ability to purchase or lease land from the city or other private landowners for agricultural use is often cost-prohibitive for community members that may benefit the most from urban food production. Cities should consider what land is available and set up policies to help residents purchase or lease land for urban agriculture often through separate policies rather than written into the zoning code itself.

Some cities have developed policies and programs that allow the use of vacant city lots for agricultural production,<sup>72</sup> and may also provide guidance on the soil remediation of potential contamination to protect public health.<sup>73</sup> Additionally, some cities have established land banks to acquire vacant or blighted land and work with growers to turn the land into productive urban agriculture plots.<sup>74</sup> These policies can help people with limited financial resources find and access land for agricultural production.<sup>75</sup> While these policies are often not located in the zoning code, it is important to understand the challenges of accessing land to investigate what else a city can do to encourage agricultural growth. Additionally, it is important to consider that development or economic pressures may add to the difficulty of land access besides just the financial aspect.<sup>76</sup>

## ACTION STEPS: HOW TO CHANGE THE ZONING CODE

The zoning process is highly localized, meaning cities often have their own procedures on how to go about amending or changing the zoning code. Generally speaking, however, zoning codes begin with the Planning Commission, an elected or appointed board of officials that draft and recommend changes to the City Council.<sup>77</sup>

- Before going to the Planning Commission (Commission), gather a coalition of interested parties who would be directly affected by a zoning change for urban agriculture. This could include urban farmers, gardeners, community development organizations, community members, food pantries, local businesses, etc. It is important to include as many interested parties in the process as early as possible so all concerns and issues can be raised and discussed fully. Good facilitation is key in order to ensure that all members feel acknowledged and valued.<sup>78</sup>
- Changes are frequently proposed to the Commission through a city official.<sup>79</sup> Private citizens can usually request a specific zoning change relating to their personal property, but it is usually more efficient to get a city official, like the City Administrator, on board for a more comprehensive zoning change.<sup>80</sup> City officials are usually responsible for proposing and presenting changes to the Commission, so having a city official work with the coalition of stakeholders can lend the group credibility with the Commission.<sup>81</sup>
- The Commission may create a Working Group. The Working Group can include community stakeholders to help craft an amendment or new zoning section, depending on the proposed changes.
- A public hearing will be held after the Commission drafts a new change or zoning section. This is where members of the community can come and raise concerns or voice support.<sup>82</sup>
- The changes go to the City Council, which must host another public hearing after the Commission recommends passage to the City's legislative body.<sup>83</sup> Often the Council hearings are much more widely attended than the Com-

- mission hearings, so there may be more opposition raised at this meeting.<sup>84</sup>
- The City Council votes on the proposed change, and if it passes the Mayor signs the resolution and it becomes part of the City Code (“codification”).<sup>85</sup>
  - After codification, it can be helpful for the city to publish a document or resource on the new zoning code and how it relates to urban agriculture. Some cities also provide the contact information for a city official to encourage residents to reach out with questions. This can create open lines of communication between potential growers and city officials and reduce any confusion.

\*Examples include Boston’s publication [Article 89 Made Easy](#) and Baltimore’s publication on the proposed changes in [How to be a Baltimore City Farmer](#).

If a group is suggesting a change to the zoning code, the change will often be included in the zoning code as an amendment that adds a new section or new definitions and clarity to an already existing zoning code. An entire rewrite of the zoning code with inclusions for urban agriculture is possible and has happened, but due to the cost associated is unlikely unless the city is already planning on rewriting the code.<sup>86</sup>

## Conclusion

Local governments have the unique power to encourage urban agriculture through municipal ordinances, zoning codes, and land use planning. Urban agriculture can in turn help cities achieve their goals of encouraging healthy eating, reducing inequities in the food system, increasing the food security of their constituents, supporting economic and community development, and creating green spaces to beautify the city. If given the power, local governments can use zoning to:

- Define urban agriculture terms
- Specify where urban agriculture activities are allowed
- Allow on-site sale of agricultural products
- Allow for small-animal husbandry (with considerations for potential nuisances)
- Allow non-commercial food production
- Allow accessory structures
- Encourage equitable access to land and resources

It is important to remember that zoning codes are one area of local government law, and some aspects of urban agriculture may fall under additional legal requirements. When crafting urban agriculture-friendly zoning, municipalities should keep in mind other local and state regulations that may affect the goal of their land use policy. Additionally, it is important to understand that policies may have externalities that may unintentionally and adversely affect certain populations. Including a variety of community members and organizations when drafting new zoning language may help mitigate some of these externalities. And adopting agriculture-inclusive zoning code modifications can still be a significant step towards increasing food production and food access for priority populations.



## ENDNOTES

- 1 Healthy Food Policy Project, <https://healthyfoodpolicyproject.org/about> (last visited Dec. 16, 2019).
- 2 U.S. CONST. amend. X.; Jean Terranova, The Role of Preemption in Urban Agriculture in AMERICAN BAR ASS'N, URBAN AGRICULTURE: POLICY, LAW, STRATEGY, AND IMPLEMENTATION 68 (Martha H. Chumbler, Sorell E. Negro, Lawrence E. Bechler eds., 2015) (discussing the role of the Constitution and 10th Amendment in giving state governments power to delegate authority).
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- 10 Pub. Health Law Ctr., Healthy Eating Policy Options for Minnesota Local Governments, PUB. HEALTH LAW CTR. 12 (May 5, 2017), <https://www.publichealthlawcenter.org/sites/default/files/resources/FGM-PolicyGuide-HealthyEating-2017.pdf>.
- 11 Martha Harrell Chumbler, Land Use and Zoning Tools: Integrating Agriculture into the Urban Landscape in AMERICAN BAR ASS'N, URBAN AGRICULTURE: POLICY, LAW, STRATEGY, AND IMPLEMENTATION 80 (Martha H. Chumbler, Sorell E. Negro, Lawrence E. Bechler eds., 2015).
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- 13 MARTHA HARRELL CHUMBLER, LAND USE AND ZONING TOOLS: INTEGRATING AGRICULTURE INTO THE URBAN LANDSCAPE IN AMERICAN BAR ASS'N, URBAN AGRICULTURE: POLICY, LAW, STRATEGY, AND IMPLEMENTATION 81 (Martha H. Chumbler, Sorell E. Negro, Lawrence E. Bechler eds., 2015).
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## APPENDIX A

The analysis in this resource was undertaken through use of portions of the audit sections taken from the Food Policy Audit Tool. For more information on the methodology of the research for this project, click [here](#).

The University of Wisconsin-Madison's Food Policy Audit Tool, based on the Center for Resilient Cities Food Policy Audit Tool, can be a helpful instrument for local governments to identify existing food policy infrastructure and recognize where changes may be needed across government programs. This tool has an extensive list of 129 questions across four categories of the food system- equitable food access, land use and zoning, economic development, and public health. The link to the audit spreadsheet can be found [here](#).

For local governments that would prefer a zoning-specific audit tool for urban agriculture, the abridged Urban Agriculture Audit Tool created for this resource may be a useful instrument. The seven questions included in this tool relate directly to the suggested actions above in Section IV. That tool can be found [here](#).

If your government has the time and resources to complete the full Food Policy Audit Tool, this could provide a wide-reaching scope of potential change. However, the abridged Urban Agriculture Audit Tool, coupled with this resource, provides concrete first steps in creating basic inclusions for zoning and urban agriculture. Regardless of which tool is used, an audit of current local government policies and programs can provide information on where improvements and changes can be made.