



---

2014

## **URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE CITIES**

Becky Jacobs

*University of Tennessee, [jacobs@utk.edu](mailto:jacobs@utk.edu)*

Follow this and additional works at: [https://trace.tennessee.edu/utk\\_lawpubl](https://trace.tennessee.edu/utk_lawpubl)



Part of the [Law Commons](#)

---

### **Recommended Citation**

Jacobs, Becky, "URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE CITIES" (2014). *College of Law Faculty Scholarship*.

[https://trace.tennessee.edu/utk\\_lawpubl/88](https://trace.tennessee.edu/utk_lawpubl/88)

This Publication is brought to you for free and open access by the Law at TRACE: Tennessee Research and Creative Exchange. It has been accepted for inclusion in College of Law Faculty Scholarship by an authorized administrator of TRACE: Tennessee Research and Creative Exchange. For more information, please contact [trace@utk.edu](mailto:trace@utk.edu).

91 U. Det. Mercy L. Rev. 215

University of Detroit Mercy Law Review

Fall 2014

Articles

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE CITIES

Becky L. Jacobs<sup>a1</sup>

Copyright (c) 2014 University of Detroit Mercy School of Law; Becky L. Jacobs

## INTRODUCTION

Detroit has become a leader in the urban agriculture movement, so it is an honor to contribute to the symposium that the University of Detroit Mercy Law Review organized on the subject. As both an academic and a citizen, I have followed the expansion of the city's urban food initiatives with both awe and envy. Detroit's residents, both individuals and corporations, are transforming both the physical and cognitive environment of the city. For example, one source estimates that the city has between 1500 and 2000 gardens, some of which are tended by homeowners in their backyards, and some of which have been developed or supported by local business, including the Cadillac Urban Gardens created by General Motors with 250 re-purposed shipping crates.<sup>1</sup> A local newspaper's website even posted a guide to Detroit's community gardens and urban farms that ran to multiple pages.<sup>2</sup> Numerous organizations and coalitions in the area exist to promote sustainable local agriculture, including Keep Growing Detroit,<sup>3</sup> Detroit Black Community Food Security Network,<sup>4</sup> the Urban Agriculture \*216 Department of The Greening of Detroit,<sup>5</sup> and the Michigan Urban Farming Initiative.<sup>6</sup> Public-private coalitions such as FoodPLUS/Detroit also are forming to leverage talent and resources in support of the movement.<sup>7</sup> Detroit's vibrant food scene is a model for the expanding number of communities in the U.S. seeking to improve food access and justice, to reduce carbon footprints, and to improve other measures of sustainability.

My city, Knoxville, Tennessee, is one of those communities. In 2012, Knoxville was one of the top 20 finalists in the Bloomberg Philanthropies Mayors Challenge, a program that offers substantial financial awards for innovative local solutions to national problems.<sup>8</sup> Knoxville's proposal called for the creation of an "urban food corridor" in the city to stimulate "a culture of healthy eating and eliminate food deserts by stimulating connections in the urban food cycle between land, farming jobs, food processing, distribution, sale, and composting."<sup>9</sup> The proposal was ambitious and sought to mobilize other urban areas that are attempting to organize their own urban agriculture and food systems. Knoxville envisioned the creation of a scalable, self-sustaining, "urban land-to-market" food corridor to improve not only food security and health measures in the community, but also to stimulate economic activity in areas of chronic disinvestment.<sup>10</sup>

This article will briefly review the details of Knoxville's innovative proposal and describe the concept of a food corridor. It also will provide an overview of the challenges that the city encountered, and is still confronting, as it pursues its food corridor vision. Finally, it will consider \*217 the path forward for Knoxville and other U.S. cities participating in the "quiet revolution" of urban agriculture.<sup>11</sup>

## I. PART I

Knoxville's Mayors Challenge entry proposed the creation of an "urban food corridor."<sup>12</sup> The goals for the proposal were lofty, seeking to eliminate the city's food deserts, to transform city neighborhoods, to shift the community's culture to one of healthy eating, and to promote principles of sustainability.

The city distinguished the corridor concept from other urban agricultural projects; its vision of an urban food corridor was based upon a comprehensive approach to assembling a complete, self-sustaining urban food system.<sup>13</sup> Knoxville's research into urban food projects in other cities revealed that, while often very successful, none had completely tackled "all components of the food cycle: parcel identification, education and job creation, food processing, distribution, sales, and composting."<sup>14</sup> This model expands the boundaries of a more traditional food hub,<sup>15</sup> moving beyond the functions of aggregation, distribution, and marketing of locally-sourced food to include not only production, processing, and disposal/recycling, but also functions related to education and economic development.

The "seed" for Knoxville's proposal grew from the widespread interest in the community for micro-neighborhood food systems that could increase access to more fresh produce in low-income neighborhoods and address issues of economic development and urban blight.<sup>16</sup> Local food issues have long been a part of the community conversation in Knoxville. Indeed, the city created the very first Food Policy Council ("FPC") in the U.S., and in the world, in the 1980's,<sup>17</sup> and members of that FPC were \*218 active participants in the development of Knoxville's Mayors Challenge entry.<sup>18</sup>

As were many other members of the community and local non-profits and businesses, not all of which were among the city's zealous locavores.<sup>19</sup> As the city's corridor concept was debated and developed, it evolved into a vision of a system that connected all aspects of the food cycle with existing local resources and partners, from growing on city-owned vacant land, to processing in non-profit kitchens, to distribution as advised by local businesses, to sales from local markets and to area restaurants, then to composting based upon the University of Tennessee's model composting project.<sup>20</sup> The concept developers did not ignore the cultural components/impacts of urban agriculture. Their vision of the corridor expanded "from simply connecting the fragmented system to using those connections to create a culture of health, and improve access to food."<sup>21</sup>

The corridor project's timeline, budget, and implementation milestones were described in the Mayors Challenge proposal.<sup>22</sup> The first several steps in the multi-year plan involved engaging the community, addressing legal and insurance mechanisms, and defining and confirming partners.<sup>23</sup> The final step was the most ambitious and costly, calling for the development of a 6-acre pilot farm in one of the city's food deserts.<sup>24</sup> As \*219 designed, the farm would have a "full-time staff, a large-scale composting facility, and an education and training program."<sup>25</sup> The proposal also delineated participant roles in the corridor project, with the city committing to provide land, project management, some financing, and enabling legislation.<sup>26</sup> The roles of partner entities also were sketched.<sup>27</sup> Business-related entities such as the Chamber of Commerce and Sysco were identified as providing entrepreneurial assistance and advice, with local restaurants such as Tomato Head listed as committing to local food purchasing.<sup>28</sup> The University of Tennessee's College of Agriculture offered training.<sup>29</sup> Local non-profits also were named as partners with defined roles, including the Knox Permaculture Guild, El Puente, and area churches.<sup>30</sup> Existing

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

urban agriculture projects such as Beardsley Community Farm and area farmers' markets, Three Rivers Market, and Just Ripe also were recognized as partners for the corridor.<sup>31</sup>

While the proposal did not fully articulate the benefits of the urban food corridor concept, these benefits are well known and have been described in more detail elsewhere.<sup>32</sup> To briefly review, urban agriculture has many environmental advantages, such as “improving the quality of the urban environment through the introduction of green space and,” concomitantly, “a reduction in pollution and global warming.”<sup>33</sup> Urban agriculture integrates with the urban food system as a whole. This reduces the transportation, manufacturing, and storage costs for local food providers and residents.<sup>34</sup> “Purchasing produce from farmers within a 100-mile (160-km) radius” of one's home “reduces automobile emissions and eliminates packaging waste.”<sup>35</sup> Additionally, urban agriculture sometimes incorporates “wastewater for irrigation and organic solid waste for fertilizer[.]”<sup>36</sup> Urban agriculture beneficially impacts a city's social environment. Urban residents often are involved as laborers, owners, and **\*220** consumers. The creation and maintenance of aesthetically pleasing properties that might otherwise have been left neglected is an additional positive social impact. These green spaces can provide a strong sense of “place” and community for residents and increase property values.<sup>37</sup>

Perhaps most importantly, however, food production in urban areas also may improve equitable food justice in a community by increasing access to fresh foods for low-income communities<sup>38</sup> located in food deserts. The USDA defines a food desert as “a census tract with a substantial share of residents who live in low-income areas that have low levels of access to a grocery store or healthy, affordable food retail outlet.”<sup>39</sup> “Low income communities” are those census tracts where the poverty rate is twenty percent or higher or the median family income is at or below eighty percent of the state's (or metropolitan area's) median family income.<sup>40</sup> The USDA classifies a substantial portion of the population with “low access” to food as census tracts with at least thirty-three percent of the population or five hundred people residing more than one mile (or ten miles in rural areas) from a supermarket or large grocery store.<sup>41</sup> According to the USDA's Food Access Research Atlas, Knox County, the county in which Knoxville is situated, has 20 food deserts.<sup>42</sup>

Knoxville is not alone in confronting this issue; nearly 30 million people in the United States live in food deserts.<sup>43</sup> In areas in which food deserts exist, including those located in Knoxville, individuals must drive long distances or rely upon public transportation in order to purchase healthy food. Many food desert neighborhoods also have an excess of empty, neglected properties-- one of the symptoms of disinvestment.

One of the many goals of Knoxville's urban food corridor was to respond to this food desert dilemma. The city aspired to produce a model that was scalable and replicable in other communities dealing with similar issues.<sup>44</sup> Knoxville's situation is not unique, and its corridor idea relies upon commonly available expertise and resources. The project was **\*221** designed so that it could be “disaggregated” and so that other cities could adapt and implement project components based upon their existing food systems and budgetary constraints.

Regrettably, Knoxville's top 20 entry ultimately did not win a monetary prize. Those associated with the project speculated that the proposal was not selected because, unlike several of the winning entries, it was not data-driven.<sup>45</sup> The fact that Knoxville's existing legal infrastructure was a barrier to implementation was cited as another possible explanation for the proposal's failure to win votes.<sup>46</sup>

Despite the disappointment of not receiving an award, Knoxville is committed to pursuing the project. The city is working with its partners to find alternate resources to move forward, even if progress is incremental.<sup>47</sup> With regard to one of the more significant obstructions, Knoxville's law department is working through the drafting and revision process to provide a legal environment that promotes the corridor's activities.

## II. PART II

Knoxville's challenges to the creation of its urban food corridor were numerous and certainly were not unusual. Urban food production is "integrated into the urban economic and ecological system,"<sup>48</sup> and urban agricultural enterprises must engage and interact with the elements of urban environments such as dense populations and neglected land. Food projects must compete for land with other urban functions and abide by urban laws and policies, as well as being conducted successfully by growing, distributing, or selling food.<sup>49</sup> Other issues such as organizational maintenance, access to, and legal control of, land, water, and other resources also may be problematic for urban agricultural enterprises.<sup>50</sup>

Legal infrastructure is often one of the most significant determinants of whether a community's urban agricultural endeavors will succeed or fail. Regardless of where a farm is located, all farmers must adhere to federal<sup>51</sup> \*222 and state laws.<sup>52</sup> In addition to these laws, urban farmers must also adhere to local laws and regulations.

Generically, there are a number of categories of legal issues for cities to consider, the most significant often being local land use laws. These laws can severely limit or completely eliminate urban agricultural activities by detailing what land or geographic areas may be used for agricultural purposes; when, where, and how locally produced food may be sold; and the limits on the keeping of animals.<sup>53</sup> Local governments adopt and enforce land use policy in their local comprehensive plans, zoning codes and ordinances, subdivision regulations, environmental regulations, and other forms of land use regulations. As an example, some cities utilize "protective zoning" which sanctions agricultural productions within city limits.<sup>54</sup> Conversely, if cities have restrictive zoning ordinances, city residents may be prohibited from raising farm animals, constructing greenhouses and other structures, and selling produce.<sup>55</sup>

For zoning purposes, it is necessary to evaluate and manage the potential noise and air pollution associated with an urban agricultural activity.<sup>56</sup> If livestock and other animals are to be kept on the premises, there is a potential for unpleasant smells or sounds,<sup>57</sup> often the subject of restrictive zoning provisions. Zoning regulations also may limit the height of vegetation grown in yards, limit the amount and height of buildings permitted, and implement animal restrictions.<sup>58</sup>

Local regulations also may contain provisions that pertain to environmental concerns. While the public typically considers the federal government to be the primary source of environmental regulations, local zoning codes may also have environmentally-focused provisions. One serious concern for urban agriculture is soil contamination.<sup>59</sup> Many vacant plots of land in urban area were once used for industrial purposes.<sup>60</sup> This \*223 poses a threat to anything that is grown in the soil. If left unaddressed, the ingestion of produce grown in contaminated soil can result in skin rashes, vomiting, and other health problems.<sup>61</sup> "Soil contamination in urban agriculture reaches several areas of the law, including environmental law, property law, and tort law."<sup>62</sup> There have been instances

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

of parties using tort law as a vehicle to pursue a legal remedy for ingesting contaminated produce and for alleged nuisances that result from urban agriculture.<sup>63</sup>

Policy makers have the opportunity to address this danger in ways other than strictly prohibiting urban agriculture. For example, if the garden uses raised beds with new soil and compost, then the produce is removed from direct contact with the contaminated soil.<sup>64</sup>

If local farmers can gain access to potentially contaminated land, the local laws may require testing, but most urban growers would test regardless of any legal requirements. Grants or other assistance may be available for farmers to test and then to remedy any identified contamination.<sup>65</sup> There are very stringent laws that regulate remediation of contaminated sites.<sup>66</sup> However, the U.S. Environmental Protection Agency provides grants to governments, tribes, and non-profits for soil remediation;<sup>67</sup> the agency has even produced a guide to the redevelopment of brownfields for local agricultural use.<sup>68</sup> State governments have also taken the initiative to provide funds for assessing soil contamination.<sup>69</sup> For example, the Minnesota Targeted Brownfield Assessment Program “assists individuals and organizations in redeveloping brownfields into urban gardens, and provides technical advice and assistance with developing a work plan.”<sup>70</sup>

In addition to the issues related to the actual agricultural activities, urban projects may confront other challenges. For example, structural organizational issues can be burdensome for some urban agricultural projects. These projects must comply with state law requirements for \*224 entity creation, either profit or non-profit, and must stay current with the relevant legal “maintenance” obligations such as by-law and report filings, annual meetings, and elections.<sup>71</sup> Tax issues may drive organizational choices, and licensing or permitting processes may be required to operate legally.<sup>72</sup> These matters often require particular, and sometimes expensive, legal, accounting or other expertise beyond the experience or financial capacity of those associated with the actual agricultural activities.

Other legal issues also may impact urban agricultural ventures, such as city parking, building, and public health codes. Other less obvious forms of legal restrictions might include community or homeowners' associations, farmers' associations, or other local codes.<sup>73</sup> Knoxville's food corridor team is dealing with most of these issues as it works to provide a more favorable legal environment for the corridor project. A number of relevant laws require consideration, including Knoxville's zoning ordinances.

Managing the city's potential exposure to legal liability for nuisance or other claims arising from the leasing and use of city land is also critical for the success of the project, including consideration of issues related to Tennessee's Right to Farm Act<sup>74</sup> and the state's legal protections for feed lots, dairy farms, and poultry production houses.<sup>75</sup> The team is attending to the definitional minutiae in various, relevant state laws, such as the Right to Farm Act, the Rare Plant Protection and Conservation Act,<sup>76</sup> the Animals and Animal Husbandry statute,<sup>77</sup> Community Gardening Act,<sup>78</sup> as well as \*225 the more generally applicable laws such as Tennessee's construction of statutes provisions<sup>79</sup> and those relating to the state's definition of “agriculture.”<sup>80</sup>

To expand upon just one feature in the Tennessee statutory landscape that the city must explore and reconcile with the local schema, the Tennessee Community Gardening Act expressly authorizes the creation of community gardens.<sup>81</sup> Low-income applicants are given priority in lot allocation.<sup>82</sup> In 2013, the legislature amended the Act

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

to allow neighborhood or community residents, or members of homeowner or condominium owner associations, to sell the products grown in authorized gardens.<sup>83</sup>

Further, the law authorizes Tennessee counties, cities, municipalities, and other state agencies and departments to make vacant public lands available for gardening and the Department of Agriculture to contract with private landowners to acquire lands for community gardens.<sup>84</sup> In all cases, the statute provides that the state, its agencies, and its employees are to be indemnified and saved harmless by gardeners and those private landowners who participate in the community gardening program.<sup>85</sup> This obligation sometimes can prove to be difficult if not impossible for some individuals and smaller groups to satisfy, leaving cities unable to utilize this statutory vehicle. In such a situation, some cities may also find it difficult to identify alternative vehicles, or to finance insurance or other indemnity products, to protect against liability.

### III. PART III

These are just a sampling of the issues with which cities must contend as they build their food structures. What follows will be a similarly short sampling of the creative responses that various cities have devised to address some of these challenging issues, focusing on zoning and land access.

Regarding zoning obstacles to urban agricultural endeavors, some local governments have responded to urban agriculture favorably by revising their zoning requirements. Cities have taken a number of different approaches to amend zoning codes to promote urban agriculture. For example, some have added urban agriculture as a permitted or conditional \*226 use in all or specified existing zones,<sup>86</sup> while others have created distinct zones, overlays, or districts for urban agricultural practices.<sup>87</sup>

One advantage to operating an urban agricultural enterprise in an approved zone is that there is no permit or license requirement to get started. These activities are simply “permitted as-of-right.”<sup>88</sup> This incentivizes citizens to engage in these sustainable activities because there is little to no bureaucracy on the front end.<sup>89</sup> On the other hand, licensing requirements allow much more control over authorized uses, minimizing community complaints and conflict.<sup>90</sup> To truly facilitate a more Knoxvilleian “corridor” vision to urban food systems, zoning also must accommodate the sale of locally grown food. Again, there are a number of ways to accomplish this, *e.g.*, the requirement of a conditional use permit for sales,<sup>91</sup> the expansion of the definition of a “home-based business” or home occupation to include urban agriculture,<sup>92</sup> or the authorization of sales where designated agricultural activities are permitted.<sup>93</sup> Cities also can ease the regulatory process for the licensing of food trucks or other mobile markets that sell locally grown food.<sup>94</sup>

\*227 Other zoning amendments that encourage urban agriculture include those establishing reasonable policies that allow residents to raise livestock under certain conditions.<sup>95</sup> Zoning codes also can facilitate small-scale agriculture on rooftops and in sidewalk strips, medians, window boxes, and front yards.<sup>96</sup> Cities can encourage developments, including subdivisions, condominiums, and PUDs, to exclude limitations and restrictions on reasonable agricultural activities through owner association rules or neighborhood covenants.<sup>97</sup>

Knoxville is taking a staged approach to the amendment of its zoning and is discussing two levels of gardens, “community” and “market.” These levels differ in intensity and purpose. Community gardens primarily serve the

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

individuals using the land; sales are incidental in nature. Market gardens are more intensive operations and are designed to produce income. Community gardens are permitted by right, but market gardens would be a use on review.<sup>98</sup> The implementation team is considering the use of supplemental regulations for allowable accessory structures, which would address temporary garden stands and would impose limitations on large/tall hoop houses and greenhouses that would require a review and permit by the city's chief building official.<sup>99</sup> The second phase of zoning amendments would tackle more intensive urban agriculture operations.<sup>100</sup>

Urban governments have other tools to promote agriculture, including grant programs and offers of “labor” or expertise. Policies or code provisions that mandate or encourage local purchasing and sourcing preferences would provide support for local food ventures.<sup>101</sup> Tax incentives such as reduced assessments, abatements, or property tax \*228 discounts also provide incentives for private individual or entity landowners to use vacant lots for local food production.<sup>102</sup>

These property-related tax incentives are critical as land for local food production is often one of the most significant barriers to successful urban agricultural initiatives. Taxation mechanisms can be effective for land that is privately held. However, there may be obstacles to the use of vacant land that is owned by city, county, or state governments. Urban agriculture often competes with other uses and private development. Also, in the context of urban agriculture, public entities typically either sell, lease, or issue licenses for the use of property they own. While a sale of both public and private land may be the “cleanest” option, potential farmers may not have sufficient capital to fund the purchase. Additionally, in the case of privately held property, funds and expertise may be needed to deal with property tax, utility, and other liens.<sup>103</sup>

Regarding the choice between leases or licenses, leasing reduces the upfront costs for the farmer and allows the city to retain ownership for future alternate uses and to retain management flexibility.<sup>104</sup> Leases benefit governmental owners as they reduce their maintenance costs. Leases also provide lessees with more stability and confidence in their rights to the property and make it easier for them to acquire liability insurance.<sup>105</sup> Licensing, on the other hand, is a less attractive option for licensees as they generally are revocable at will, with or without notice depending upon the terms of the agreement.<sup>106</sup> This makes it difficult for licensee to obtain insurance.<sup>107</sup> Because urban gardens make “a serious investment of time and money when they commit to a neighborhood gardening project[,]” security of tenure can be a determinative factor in whether their endeavor can go forward.<sup>108</sup>

Cities, individuals, and both for- and non-profits are experimenting with other vehicles that provide urban agriculturists access to land. Land banks, land trusts, agricultural easements, and private land pairing and sharing are all being utilized to promote urban food system development.<sup>109</sup>

\*229 Knoxville currently is not leasing or licensing city-owned land for urban agriculture.<sup>110</sup> However, it is exploring options for how best it may be able to provide access to its appropriate vacant properties for urban farm projects.<sup>111</sup> Any option that it chooses, however, would require applicants to obtain liability insurance,<sup>112</sup> which might discourage some individuals or groups.

#### IV. CONCLUSION



URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

Although it did not win a financial award in the Bloomberg Philanthropies' Mayors Challenge, Knoxville's vision of an urban food corridor generated quite a bit of local and national excitement.<sup>113</sup> The corridor concept takes a comprehensive approach to creating a complete urban food system that would operate “all components of the food cycle: parcel identification, education and job creation, food processing, distribution, sales, and composting.”<sup>114</sup> Knoxville's entry was ambitious, seeking not only to implement its concept within its own borders, but also to make the plan scalable and replicable in other cities addressing their own food issues.<sup>115</sup> Knoxville's urban food corridor is an optimistic project that has the potential to address a number of urgent problems that it and other expanding cities are experiencing.

Almost 250 million U.S. residents live in urban areas,<sup>116</sup> yet only “fifteen percent of the world's food is grown in urban areas.”<sup>117</sup> The potential benefits of urban agriculture for these citizens are many. Farming \*230 in cities can improve the quality of life for residents, providing access to healthy, locally grown food to low-income residents of area food deserts. This can improve measures of health in many ways, such as obesity reduction and the prevention of other diseases associated with poor diets.<sup>118</sup>

There are also positive economic, social, and environmental outcomes from urban agriculture. Economically, some claim that city farms increase urban economic productivity. For example, the U.S. Department of Agriculture estimated that demand for locally grown food would rise from the \$4 billion market in 2002 to a \$7 billion market in 2012.<sup>119</sup> Not only are some residents employed in these local agricultural endeavors, but area homeowners all benefit as researchers have reported that community gardens have a significant positive impact on neighborhood property values, particularly in the poorest neighborhoods.<sup>120</sup>

This increase in property values may be attributable to the many aesthetic, physical, and social benefits that are identified with urban agriculture. Well-tended gardens and increased vegetation beautify neighborhood aesthetics and have been credited with preventing dumping and trash accumulation, loitering, and even crime.<sup>121</sup> They also have positive impacts on a community's physical environment. Local food production can reduce pollution and storm water runoff, improve air quality, and reduce carbon and greenhouse gas emissions that are associated with food transport.<sup>122</sup> Locally grown food also requires less packaging, refrigeration, and fewer preservatives.<sup>123</sup>

If implemented, Knoxville's corridor project has the potential to bring numerous benefits to our community. While my city has some catching up to do with Detroit, it is committed to pursuing its food system project over the long term. Detroit and other U.S. cities that have successfully \*231 implemented one or more urban agriculture strategies will serve as models as Knoxville advances its local food plans.

#### Footnotes

<sup>a1</sup> Professor of Law at the University of Tennessee College of Law. Professor Jacobs offers her most sincere thanks to Cara Rains, a 2014 graduate of UT Law, who conducted extensive research and worked on the draft for this project. She also would like to thank the organizers of UDM's 2014 Law Review Urban Agricultural Symposium for organizing this very interesting and important event. Thanks too to the talented and dedicated Knoxville employees who comprise the real “food corridor” and who shared their experience and insight on the city's plans, including Doug Gordon and Crista Cuccaro, Law Department; Sarah Guy, AmeriCorps VISTA, City of Knoxville Sustainability Office/ UTK Service Learning; and Jake Tisinger, Project Manager, Office of Sustainability.

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

- 1 Jane C. Timm, *Urban Farming Takes Hold in Blighted Motor City*, MSNBC MORNING JOE (Sept. 10, 2013, 12:01 AM), available at <http://www.msnbc.com/morning-joe/urban-farming-takes-hold-blighted-motor>.
- 2 *Finding Detroit's Urban Farms and Community Gardens*, METRO TIMES (Oct. 2, 2013), available at <http://metrotimes.com/food/features/finding-detroit-s-urban-farms-and-community-gardens-1.1562097?pgno=2>.
- 3 See generally *About Us*, KEEP GROWING DETROIT, <http://detroitagriculture.net/about/> (last visited June 26, 2014) (“Keep Growing Detroit (KGD) exists to promote a food sovereign city where the majority of fruits and vegetables Detroiters consume are grown by residents within the city's limits.”).
- 4 See generally *About Us*, DETROIT BLACK COMMUNITY FOOD SECURITY NETWORK, <http://detroitblackfoodsecurity.org/about.html> (last visited June 26, 2014) (“DBCFSN is creating model urban agricultural projects that seek to build community self-reliance, and to change our consciousness about food.”).
- 5 See generally *What We Do: Urban Agriculture*, THE GREENING OF DETROIT, <http://greeningofdetroit.com/what-we-do/urban-agriculture/> (last visited June 26, 2014) (“The Greening of Detroit's urban agriculture department is committed to helping all Detroiters develop a healthy relationship with food through self-sufficient food production, and increased awareness of gardening, nutrition and local food systems.”).
- 6 See generally *All About MUFI*, MICHIGAN URBAN FARMING INITIATIVE, <http://www.miufi.org/#!/about/c560> (last visited June 26, 2014) (“The Michigan Urban Farming Initiative is a 501(c)(3) nonprofit organization that seeks to engage members of the Michigan community in sustainable agriculture.”).
- 7 See generally *Identity, Vision and Mission*, FOODPLUS DETROIT, <http://foodplusdetroit.org/mission/> (last visited June 26, 2014) (“FoodPLUS Detroit is a local partnership network comprised of business, government, societal, cultural and community organizations and knowledge institutions [that] envisions a metropolitan food system that produces, processes and distributes food that is abundant, safe, healthy, affordable and accessible, while conserving energy, water and soil, opening economic opportunities for the many and enhancing diversity and social justice in the community.”).
- 8 For general information about the Bloomberg Philanthropies' Mayors Challenge, see <http://mayorschallenge.bloomberg.org/>.
- 9 *Urban Food Corridor, Bloomberg Philanthropies Mayors Challenge*, CITY OF KNOXVILLE 1 (Feb. 1, 2013), available at <http://www.cityofknoxville.org/sustainability/bloomberfinal.pdf> [hereinafter *Mayors Challenge*].
- 10 *Id.* at 9.
- 11 Chris Lazarus, *Urban Agriculture: A Revolutionary Model for Economic Development*, in 2 NEW VILLAGE: BUILDING SUSTAINABLE CULTURES 64, 64 (Lynne Elizabeth ed., Architects/ Designers/ Planners for Social Responsibility, 2000) (quoting Michael Ableman, *The Quiet Revolution; Urban Agriculture-- Feeding the Body, Feeding the Soul*, in FATAL HARVEST: THE TRAGEDY OF INDUSTRIAL AGRICULTURE 357, 359 (Andrew Kimbrell ed., Foundation for Deep Ecology, 2002)).
- 12 *Mayors Challenge*, *supra* note 9.
- 13 *Id.* at 3-4, 9.
- 14 *Id.* at 4.
- 15 See generally James Barham, et al., *Regional Food Hub Resource Guide*, U.S. DEPARTMENT OF AGRICULTURE (April 2012), available at <http://community-wealth.org/sites/clone.community-wealth.org/files/downloads/tool-usda-regional-food-hub.pdf> (discussing regional and traditional food hubs).
- 16 *Id.*

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

- 17 To read more about the history and the work of Knoxville's FPC, see its website at <http://www.knoxfood.org/did-you-know/> (last visited Jan. 5, 2015).
- 18 Eleanor Scott, *Plowing Ahead: Knoxville Didn't Win Bloomberg Philanthropies' Contest Money. Is The "Food Corridor" Dead?*, METRO PULSE (Mar. 20, 2013), available at <http://www.metropulse.com/news/2013/mar/20/plowing-ahead-knoxville-didnt-win-bloomberg-philan/>.
- 19 Professor Peter Wendel discusses the "local food movement" in his contribution to this volume. See generally Peter Wendel, *Distressed Cities and Urban Farming: Are We Making a Mountain Out of a Molehill?*, 91 U. DET. MERCY L. REV. 277 (2015).
- 20 See generally *Mayors Challenge*, *supra* note 9, at 1-7.
- 21 *Id.* at 2.
- 22 *Id.* at 5-7 (While the minutiae of Knoxville's entry are beyond the scope of this brief essay, they are well developed, and the author urges those interested to review the proposal more closely.).
- 23 *Id.* at 5.
- 24 *Id.* Compared to projects such as Detroit's Hantz Farms, which originally included plans for thousands of acres, this 6.2-acre area may seem small, but it would be at least partially funded by the city and is intended as a model. *Id.* at 5-6. Hantz Woodlands is an urban tree farm that is owned by the private, for-profit enterprise Hantz Farms L.L.C. Critics of Hantz Farm's plan call the project a land grab. See *Hantz Farms Inks Purchase Deal with Orr, State to Clear 1,500 Detroit Lots for Tree Farms*, CRAIN'S DETROIT BUSINESS ((Oct. 18, 2013), available at <http://www.crainsdetroit.com/article/20131018/NEWS01/131019814/hantz-farms-inks-purchase-deal-with-orr-state-to-clear-1500-detroit#>). The farm currently has been scaled back to a 15-20 acre area on which 15,000 trees recently were planted. For a news report on the progress at Hantz Woodlands, see Hannah Watts, *Hantz Woodlands "Greens" Detroit by Planting 15,000 Trees in the Motor City*, MLIVE (June 13, 2014), available at [http://www.mlive.com/environment/index.ssf/2014/06/hantz\\_woodlands\\_greens\\_detroit.html](http://www.mlive.com/environment/index.ssf/2014/06/hantz_woodlands_greens_detroit.html).
- 25 Scott, *supra* note 18.
- 26 *Mayors Challenge*, *supra* note 9, at 6.
- 27 . *Id.*
- 28 *Id.*
- 29 . *Id.*
- 30 . *Id.*
- 31 . *Id.*
- 32 For an extensive bibliography of urban agricultural impacts, see Sheila Golden , *Urban Agriculture Impacts: Social, Economic, and Health: An Annotated Bibliography*, UC DAVIS AGRICULTURAL SUSTAINABILITY INSTITUTE (Nov. 2013), available at <http://www.sarep.ucdavis.edu/sfs/UA%20Annotated%20Biblio-%20Golden%20Reduced%2011-15.pdf>.
- 33 Maya Dunne & Mia Lehrer, *Urban Agriculture: Practices to Improve Cities*, URBANLAND (Jan. 18, 2011), available at <http://urbanland.uli.org/default-category/urban-agriculture-practices-to-improve-cities/>.
- 34 . *Id.*

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

- 35 *Id.*
- 36 *Id.*
- 37 See, e.g., Jane E. Schukoske, *Community Development Through Gardening: State and Local Policies Transforming Urban Open Space*, 3 N.Y.U. J. LEGIS. & PUB. POL'Y 351, 375 n.131 (1999-2000) (quoting 1978 N.Y. Laws 632, §1).
- 38 *Id.*
- 39 *Food Deserts*, UNITED STATES DEPT. OF AGRICULTURE, [https:// apps.ams.usda.gov/fooddeserts/foodDeserts.aspx](https://apps.ams.usda.gov/fooddeserts/foodDeserts.aspx) (last visited Jan. 5, 2015).
- 40 *Id.*
- 41 *Id.*
- 42 *Food Access Research Atlas*, UNITED STATES DEPT. OF AGRICULTURE, <http://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas.aspx> (last visited Jan. 5, 2015).
- 43 Emily M. Broad Leib, *All (Food) Politics Is Local: Increasing Food Access Through Local Government Action*, 7 HARV. L. & POL'Y REV. 321, 324 (2013) ("Food deserts formed in urban areas after many white, middle-class Americans moved to the suburbs in the 1960s and 1970s and supermarkets migrated with them.").
- 44 *Mayors Challenge*, *supra* note 9, at 1.
- 45 Scott, *supra* note 18.
- 46 *Id.*
- 47 *Id.*
- 48 *What is Urban Agriculture?*, RESOURCE CENTRES ON URBAN AGRICULTURE & FOOD SECURITY, [http:// web.archive.org/web/20131102031559/http:// ruaf.org/node/512](http://web.archive.org/web/20131102031559/http://ruaf.org/node/512) (last visited Jan. 5, 2015) (accessed by searching the Internet Archive).
- 49 *Id.*
- 50 Schukoske, *supra* note 37, at 362-72.
- 51 The federal government regulates food safety generally and, more specifically, meat and poultry processing. It also has limited food recall authority. See, e.g., Poultry Products Inspection Act, 21 U.S.C. §§ 451-72 (2012); Federal Meat Inspection Act, 21 U.S.C. §§ 601-95 (2012).
- 52 A number of state governments have adopted some version of the U.S. FDA's *Food Code*, which addresses food safety for restaurants and retail stores. See *Real Progress in Food Code Adoption*, U.S. FOOD AND DRUG ADMINISTRATION (Aug. 27, 2013), available at [http:// www.fda.gov/downloads/food/guidanceregulation/retailfoodprotection/foodcode/ucm230336.pdf](http://www.fda.gov/downloads/food/guidanceregulation/retailfoodprotection/foodcode/ucm230336.pdf).
- 53 See, e.g., Stephanie A. Maloney, *Putting Paradise in the Parking Lot: Using Zoning to Promote Urban Agriculture*, 88 NOTRE DAME L. REV. 2551, 2568-83 (2013) (giving a general overview of zoning and restrictions on selling products from urban farms).
- 54 *Id.* at 2553.
- 55 *Id.*

- 56 *Id.* at 2567-68.
- 57 *Id.* at 2568.
- 58 *Id.* at 2557.
- 59 *Id.* at 2567.
- 60 Douglas Main, *The Toxic Reason Urban Agriculture Isn't a Bigger Trend*, TAKEPART (Sept. 19, 2013), available at <http://www.takepart.com/article/2013/09/19/reasons-why-urban-agriculture-isnt-bigger>.
- 61 Steven A. Platt, *Death by Arugula: How Soil Contamination Stunts Urban Agriculture, and What the Law Should Do About It*, 97 MINN. L. REV. 1507, 1508-14 (2013).
- 62 *Id.* at 1517.
- 63 *Id.*
- 64 Catherine J. LaCroix, *Urban Agriculture and Other Green Uses*, 42 URB. L. 225, 280 (2010).
- 65 *Id.* at 276-84.
- 66 The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) creates a federal remedy for soil contamination. 42 U.S.C. §9601(14) & (33) (2012). Some states have enacted statutes similar to CERCLA. E.g. MINN. STAT. ANN. §§ 115B.05, 115B.14 (West 2014).
- 67 Platt, *supra* note 61, at 1528.
- 68 *How Does Your Garden Grow?*, U.S. ENVTL. PROT. AGENCY (March 2009), available at [http://www.epa.gov/brownfields/success/local\\_ag.pdf](http://www.epa.gov/brownfields/success/local_ag.pdf).
- 69 Platt, *supra* note 61, at 1523-26 .
- 70 *Id.* at 1516.
- 71 Schukoske, *supra* note 37, at 362-65.
- 72 *Id.*
- 73 *Id.*
- 74 Right-To-Farm laws provide statutory protection of farmers against nuisance suits. See Melanie J. Duda, *Growing in the D: Revising Current Laws to Promote a Model of Sustainable City Agriculture*, 89 U. DET. MERCY L. REV. 181, 186-94 (2012) (discussing the tension between Right-to-Farm laws and protecting the rights of the public at large). There are typically two types of right-to-farm acts: (1) the first protects farmers from nuisance suits as long as “the agricultural activity has been in effect for a certain amount of time;” (2) the second provides absolute immunity to agricultural activities as long as they comply with applicable environmental regulations and zoning ordinances. *Id.* at 187 (citing Christine H. Kellett, *Understanding “Right to Farm” Laws*, AGRIC. LAW RES. AND REFERENCE CTR. (1999), available at [http://law.psu.edu/\\_file/aglaw/Understanding\\_Right\\_to\\_Farm\\_Laws.pdf](http://law.psu.edu/_file/aglaw/Understanding_Right_to_Farm_Laws.pdf)). Right-to-Farm laws seem to serve their intended purposes in rural areas; however, these laws tend not to be appropriate in urban areas. While farming in rural areas affects a small group of people in the surrounding area of the farm, many people are affected in urban areas due to population density. While Right-to-Farm laws potentially could promote urban agriculture by preventing nuisance suits, they also would make it difficult for municipalities to regulate urban agricultural activities and might cause community conflict that could dis-incentivize agricultural activities. *Id.* at 193.

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

- 75 TENN. CODE ANN. § 44-18-102 (2007).
- 76 TENN. CODE ANN. §§ 70-8-301-314 (2007).
- 77 TENN. CODE ANN. §§ 44-1-101-21-104 (2007).
- 78 TENN. CODE ANN. §§ 43-24-101-104 (2007).
- 79 TENN. CODE ANN. §§ 1-3-10-120 (2007).
- 80 TENN. CODE ANN. §§ 43-1-101-803 (2007).
- 81 TENN. CODE ANN. § 43-24-101, et. al. (2007).
- 82 TENN. CODE ANN. § 43-24-103(b) (2007).
- 83 S. 102, 108TH Gen. Assemb., 1st Reg. Sess. (Tenn. 2013).
- 84 TENN. CODE ANN. § 43-24-103(a)(4) (2007).
- 85 TENN. CODE ANN. § 43-24-103(a)(1)(B)(iv) (2007).
- 86 Portland, Oregon has an “agriculture” use category that “includes activities that raise, produce or keep plants or animals.” PORTLAND ZONING CODE 33.920.500 (2014), *available at* [https:// www.portlandoregon.gov/bps/article/53501](https://www.portlandoregon.gov/bps/article/53501). This agriculture use category is permitted by right in all industrial districts and low-density residential districts and allows some limited accessory structures.
- 87 Chattanooga, Tennessee, for example, included an Urban Agriculture Zone that allows “growing of crops, dairying, grazing, the raising and maintaining of poultry and livestock, horticulture, viticulture, floriculture, forest and woods... [as well as] such uses as riding academies, livery or boarding stables, and other similar enterprises and uses.” CHATTANOOGA, TENN. CITY CODE art. V, div. 28, § 38-453 (2014), *available at* [http:// www.chattanooga.gov/city-council-files/CityCode/38%20-%20Zoning.pdf](http://www.chattanooga.gov/city-council-files/CityCode/38%20-%20Zoning.pdf). As an example of combination zoning solution, Seattle expanded its zoning restrictions for animals by stating that “[t]he keeping of small animals, farm animals, domestic fowl and bees is permitted outright in all zones as an accessory use to any principled use permitted outright or to a permitted conditional use.” Maloney, *supra* note 53, at 2590 (quoting SEATTLE MUN. CODE tit. 23 § 23.42.052 (2014)).
- 88 *See* Maloney, *supra* note 53, at 2575.
- 89 *See id.* at 2590.
- 90 Pre-approval can provide regulators with much more flexibility vis-à-vis restrictions on volume, timing, and types of sales, etc. *Cf.* Corinne Calfee & Eve Weissman, *Permission to Transition: Zoning and the Transition Movement*, 64 PLAN. & ENVTL. L. 3 (2012) (outlining “specific steps communities can take to remove needless barriers to urban agriculture while protecting citizens from nuisances”).
- 91 CLEVELAND, OHIO, CODE OF ORDINANCES pt. III tit. VII, § 336.01 (2014).
- 92 OAKLAND, CAL., PLAN. CODE § 17.112.020 (2013).
- 93 S. F., CAL., PLAN. CODE art. 1 § 102.35 (2014).
- 94 Chicago, for example, passed an ordinance that allows licensed produce vendors to sell whole and uncooked agricultural, plant-based items, including, but not limited to: fruits, vegetables, legumes, edible grains, nuts, spices, herbs, and cut flowers on moveable stands. *See* CHI., ILL., MUN. CODE §§ 4-8-010, 10-28-060, 17-3-0300 (2014).

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

The city also funds a “Neighbor Carts” program, which provides carts for lease and low-cost licenses. *Neighbor Carts*, NEIGHBOR CAPITAL, <http://neighborcapital.com/neighborcarts/> (last visited Sept. 24, 2014).

95 Calfee & Weissman, *supra* note 90.

96 *Id.*; see also, e.g., Maureen O'Hagen, *Vegetable Gardens Crop Up in Seattle Parking Strips*, SEATTLE TIMES (July 25, 2009), available at [http://seattletimes.com/html/nationworld/2009535078\\_parkingstrips25m.html](http://seattletimes.com/html/nationworld/2009535078_parkingstrips25m.html).

97 Calfee & Weissman, *supra* note 90. On the state level, Right-to-Farm Acts potentially could be amended in such a way so as to conditionally include urban farms and to provide consistent and more standards for agricultural practices. See Susanne A. Heckler, *A Right to Farm in the City: Providing a Legal Framework for Legitimizing Urban Farming in American Cities*, 47 VAL. U. L. REV. 217, 260-65 (2012) (providing text and commentary on a proposed amendment to the Michigan Right to Farm Act). This solution would offer legal protections to urban farmers that local laws rarely can provide. *Id.*

98 Correspondence on file with author.

99 *Id.*

100 *Id.*

101 But see Amy S. Ackerman, *Buy Healthy, Buy Local: An Analysis of Potential Legal Challenges to State and Local Government Local Purchase Preferences*, 43 URB. LAW. 1015, 1016 (2011) (exploring potential legal obstacles to state and local government local purchasing preferences).

102 Calfee & Weissman, *supra* note 90.

103 See Kathryn A. Peters, Note, *Creating a Sustainable Urban Agriculture Revolution*, 25 J. ENVTL. L. & LITIG. 203, 240-41 (2010).

104 John E. Mogk, Sarah Kwiatkowski & Mary J. Weindorf, *Promoting Urban Agriculture as an Alternative Land Use for Vacant Properties in the City of Detroit: Benefits, Problems and Proposals for a Regulatory Framework for Successful Land Use Integration*, 56 WAYNE L. REV. 1521, 1555 (2010).

105 Becky Lundberg Witt, *Urban Agriculture and Local Government Law: Promises, Realities, and Solutions*, 16 U. PA. J.L. & SOC. CHANGE 221, 227 (2013).

106 *Id.* at 225-26.

107 *Id.* at 227.

108 *Id.* at 226.

109 Peters, *supra* note 103, at 240-43. In their contribution to this volume, Professors Owley and Lewis provide an excellent and thorough analysis of property law tools that pertain to urban agricultural efforts, both those that have been implemented and those that are more theoretical. See generally Jessica Owley & Tonya Lewis, *From Vacant Lots to Full Pantries: Urban Agriculture Programs and the American City*, 91 U. DET. MERCY L. REV. 233 (2015).

110 *The Knoxville Area Guide to Community Gardening*, CITY OF KNOXVILLE 9 (2011), available at <http://www.cityofknoxville.org/boards/food/toolkit.pdf>.

111 *Id.*

112 *Id.*

URBAN FOOD CORRIDORS: CULTIVATING SUSTAINABLE..., 91 U. Det. Mercy L....

---

- 113 E.g., *3 Cities, 3 Great Food and Fuel Projects--Can They Continue Without Mayors Challenge Funding?*, SUSTAINABLE AMERICA (Apr. 22 2013), available at <http://www.sustainableamerica.org/blog/3-cities-3-great-food-and-fuel-projects/#sthash.gNi6RIxJ.dpuf>.
- 114 *Mayors Challenge*, *supra* note 9, at 4.
- 115 *Id.* at 1.
- 116 Platt, *supra* note 61, at 1507 (citing *2010 Census Urban Area FAQs*, U.S. CENSUS BUREAU, <http://www.census.gov/geo/reference/ua/uafaq.html> (last updated Mar. 7, 2013)).
- 117 *Id.* Contrast this fifteen percent with the data that Professor Wendel presents in his article in this volume: "During World War II, America embraced the notion of 'Victory Gardens.' At their height, it is estimated that there were over 20 million Victory Gardens that produced approximately 40% of the country's vegetables." See Wendel, *supra* note 19 (citing Mogk et al., *supra* note 104, at 1527; Julie M. Slabinski, *From Wasteland to Oasis: How Pennsylvania Can Appropriate Vacant Urban Land into Functional Space Via Urban Farming*, 22 WIDENER L.J. 253, 257 (2012)).
- 118 See Jim Smith, *Encouraging the Growth of Urban Agriculture in Trenton and Newark Through Amendments to the Zoning Codes: A Proven Approach to Addressing the Persistence of Food Deserts*, 14 VT. J. ENVTL. L. 71, 79-81 (2012).
- 119 Debra Tropp, *Emerging Opportunities for Local Food in U.S. Consumer Markets*, U.S. DEPT OF AGRIC. 3 (Aug. 2008), available at <http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5076556>.
- 120 Ioan Voicu & Vicki Been, *The Effect of Community Gardens on Neighboring Property Values*, 36 REAL EST. ECON. 241, 241 (2008), available at <http://web.nmsu.edu/~bikerac/Articles/The%20Effect%20of%20Community%20Gardens%20on%20Neighboring%20Property%20Values.pdf>.
- 121 Heckler, *supra* note 97, at 224 (citing Alexandra Dapolito Dunn, *Sitting Green Infrastructure: Legal and Policy Solutions to Alleviate Urban Poverty and Promote Healthy Communities*, 37 B.C. ENVTL. AFF. L. REV. 41, 48 (2010)).
- 122 Jeffrey P. LeJava & Michael J. Goonan, *Zoning and Land Use Planning*, 41 REAL EST. L.J. 216, 222-24 (2012); see also, e.g., Wendel, *supra* note 19 (Professor Wendel's article also discusses the relationship between urban farming and the environment.); Owley & Lewis, *supra* note 109.
- 123 Maloney, *supra* note 53, at 2562.