

***Planning With Room to Grow:  
Community Gardens as Part of the Urban Landscape***

Julie Perry\*

Gardens, scholars say, are the first sign of commitment to a community.  
When people plant corn they are saying, let's stay here.  
And by their connection to the land, they are connected to one another.<sup>1</sup>

**I. Introduction**

Food is one of the basic necessities of life, yet the long-term security of our present food system is shaky at best. In general, the people of this country are wholly dependent upon others to supply their food, a delicate situation to be in when global factors are drastically affecting our ability to access nutritious and affordable food. Large-scale efforts to address food insecurity are proving unsustainable as economies dwindle and modern farming practices take their toll on the environment. Long-term solutions, in the form of policy changes in the areas of agriculture and land use planning, are needed to ensure food security.

Although some shifts in these policies will eventually take place on a national scale, immediate solutions are likely to be found at the local level with communities working to produce their own food. Local production will not only improve access to food, it will also advance the overall health of communities as citizens work together to increase property values, save on grocery bills, support food banks, improve physical health, nurture the environment and strengthen social ties.

To protect the longevity of community food production, it is imperative that local governments develop the land use policies necessary to implement these initiatives. Several cities across the United States are leading the way in this regard by amending their zoning ordinances to allow for local food production in the form of community gardens. Model

---

\* J.D., Barry University School of Law; B.A., University of Central Florida.

<sup>1</sup> Anne Raver, *Growing*, N.Y. TIMES, Feb. 13, 1992, at C2.

language from these ordinances should be tailored to suit the needs of cities around the country as we strive to address issues of food security and community-building.

## **II. The Problem of Food Insecurity**

In 2007, 11.1 percent of households in the United States were food-insecure at some point during the year, meaning that all household members did not have access at all times to enough food for an active, healthy life.<sup>2</sup> More than half of all food-insecure households participate in some form of federal food and nutrition assistance program, and more than 20 percent utilize emergency food pantries and soup kitchens.<sup>3</sup> Such “band-aid” solutions to food insecurity are the norm, but funding for federal programs can be cut in the blink of an eye, and food demands can easily exceed pantry supplies. As food prices in this country continue to rise, an increasing number of people will find themselves struggling to meet their basic food needs. Although emergency food programs can be important resources for low-income individuals, they should be used more as a safety net than as long-term solutions to food insecurity. Developing the needed solutions will require us to look at the sources of food insecurity by critically evaluating our current food system.

Over the past several decades, food production has struggled to keep up with an exponentially increasing human population. In the 1970s, the Green Revolution began in an effort to address this disparity.<sup>4</sup> The movement called for a shift toward agricultural methods dependent upon massive chemical inputs, invasive technologies and centralized control of the food system to increase the quantity of affordable crops.<sup>5</sup> Although this change in farming

---

<sup>2</sup> Mark Nord et al., U.S. Dep’t of Agric., *Household Food Security in the United States, 2007* iii (2008) available at <http://www.ers.usda.gov/Publications/ERR66/ERR66.pdf>.

<sup>3</sup> *Id.* at iv.

<sup>4</sup> See Debi Barker, *Globalization and Industrial Agriculture*, in *THE FATAL HARVEST READER: THE TRAGEDY OF INDUSTRIAL AGRICULTURE* 252 (Andrew Kimbrell, ed., 2002).

<sup>5</sup> *Id.* at 249.

methods generated immediate results in the form of short-term higher yields and cheap food prices, in the long-term it is proving to be unsustainable, both ecologically and as a solution to food insecurity.<sup>6</sup>

When agricultural yields are reliant upon a large number of industrial inputs, food prices ultimately reflect the cost of those inputs. Fertilizers utilized to make plants grow faster and larger, tractors and crop-dusters needed to manage vast tracts of farmland and refrigerated trucks required to ship heavily packaged produce across the globe all depend on a nonrenewable and dying resource: oil.<sup>7</sup> According to a report prepared for the United States Department of Energy, world oil production is expected to peak within the next 20 years, after which time conventional oil supplies will no longer be capable of meeting world demands and oil prices will soar.<sup>8</sup> Any system relying so heavily upon such an unreliable resource is clearly not sustainable. In fact, recent spikes in oil prices have prompted higher food prices across the globe, leading to violent food riots in countries like Mexico and Pakistan where protests are often stimulated by resentment toward government officials who have made fortunes on oil exports while their constituents struggle to meet their basic food needs.<sup>9</sup>

Increased oil prices have also prompted governments around the world to seek alternative sources of fuel. These alternatives often involve boosting the production of biofuels. Biofuels are derived from plants, including food crops such as corn, canola, soy and sugar cane.<sup>10</sup> A shift to biofuels may decrease the amount we spend on oil, but it will ultimately increase the price of

---

<sup>6</sup> See *id.* at 250.

<sup>7</sup> “Such energy use, with emissions of carbon dioxide, methane, and nitrous oxide, has severe consequences for global climate.” *Id.* at 251-52.

<sup>8</sup> Robert L. Hirsch et al., *Peaking of World Oil Production: Impacts, Mitigation, & Risk Management* 5 (2005) available at [www.netl.doe.gov/publications/others/pdf/Oil\\_Peaking\\_NETL.pdf](http://www.netl.doe.gov/publications/others/pdf/Oil_Peaking_NETL.pdf).

<sup>9</sup> Vivienne Walt, *The World's Growing Food-Price Crisis*, TIME, Feb. 27, 2008, [www.time.com/time/world/article/0,8599,1717572,00.html](http://www.time.com/time/world/article/0,8599,1717572,00.html).

<sup>10</sup> Corrina Steward, Community Food Security Coalition, *Fueling Disaster: A Community Food Security Perspective on Agrofuels* 5 (2007), available at [www.foodsecurity.org/Fueling\\_Disaster.pdf](http://www.foodsecurity.org/Fueling_Disaster.pdf).

food. This is due, in part, to government mandates for corn-based ethanol, for which generous subsidies have prompted thousands of farmers to grow corn for fuel instead of food.<sup>11</sup> According to Jean Ziegler, United Nations Special Rapporteur on the Right to Food, converting food into fuels is a “recipe for disaster” because it increases food prices and uses up precious resources such as land, water and labor.<sup>12</sup> In addition, relying on biofuels will do little to decrease our dependence on foreign countries for fuel since domestically produced biofuels cannot come close to meeting our fuel demands. For instance, converting our entire corn crop into ethanol would replace only 12 percent of the United States’ current gasoline consumption.<sup>13</sup> The rest of the biofuels needed to meet energy demands will have to come from other countries. We will also become more dependent upon foreign countries for food as our domestic agriculture shifts to fuel production.<sup>14</sup> This is especially dangerous since we have little control over the safety of imported foods.<sup>15</sup>

Another drawback to industrialized food production and biofuels is the unsustainable impact they have on the environment. To produce large quantities of food and biofuels, industrial agriculture often utilizes monoculture farming practices whereby a single crop is planted, harvested and maintained uniformly over a wide area.<sup>16</sup> Monoculture farming is especially handy where genetically engineered crops are grown since the genes of these plants have been modified

---

<sup>11</sup> Walt, *supra* note 9.

<sup>12</sup> Steward, *supra* note 10, at 8.

<sup>13</sup> C. Ford Runge and Benjamin Senauer, *How Biofuels Could Starve the Poor*, Foreign Affairs, May/June 2007, [www.foreignaffairs.org/20070501faessay86305/c-ford-runge-benjamin-senauer/how-biofuels-could-starve-the-poor.html](http://www.foreignaffairs.org/20070501faessay86305/c-ford-runge-benjamin-senauer/how-biofuels-could-starve-the-poor.html).

<sup>14</sup> This trend is on the rise. From 2000 to 2006, the United States nearly doubled its importation of fresh fruits and vegetables. Elisabeth Rosenthal, *Environmental Cost of Shipping Groceries Around the World*, N.Y. TIMES, Apr. 26, 2008, [www.nytimes.com/2008/04/26/business/worldbusiness/26food.html](http://www.nytimes.com/2008/04/26/business/worldbusiness/26food.html).

<sup>15</sup> This is evidenced by recent food imports from China contaminated with melamine. Michael Pollan, *Farmer in Chief*, N.Y. TIMES, Oct. 9, 2008, [www.nytimes.com/2008/10/12/magazine/12policy-t.html](http://www.nytimes.com/2008/10/12/magazine/12policy-t.html).

<sup>16</sup> Barker, *supra* note 4, at 253.

to grow under specific conditions or to resist certain herbicides.<sup>17</sup> However, monoculture farming, with its use of pesticides, herbicides and genetically modified plants, leads to a decrease in biodiversity.<sup>18</sup> These agricultural methods use chemical inputs and harsh farming techniques to replace age-old, sustainable farming practices that provide natural pest controls and that nurture the soil by working within ecological systems instead of seeking to dominate them.<sup>19</sup> Genetically modified organisms further pose the threat of contaminating other plants with their altered genes, thereby disrupting natural ecosystems and interfering with the attempts of nearby farmers to practice organic farming methods.<sup>20</sup> Monoculture farming also leaves fields susceptible to large-scale crop failure since one disease can wipe out an entire crop.<sup>21</sup>

The harm industrial agriculture causes to the planet also damages the health of its inhabitants. Harsh farming techniques cause topsoil to erode rapidly, stripping away beneficial nutrients that would otherwise end up in our food.<sup>22</sup> In addition, new proteins created by genetically engineered foods pose the threat of introducing allergens into the food supply.<sup>23</sup> Pesticides are also entering our bodies through air, water and food and are associated with elevated cancer risks as well as reproductive and endocrine system disorders.<sup>24</sup> Equally disturbing is the likely impact these pesticides are having on crop pollinators. In a phenomenon known as Colony Collapse Disorder (or “CCD”), honey bees across the globe are dying off at

---

<sup>17</sup> See Joseph Mendelson III, *Untested, Unlabeled, and You’re Eating It: The Health and Environmental Hazards of Genetically Engineered Food*, in *THE FATAL HARVEST READER: THE TRAGEDY OF INDUSTRIAL AGRICULTURE* 157 (Andrew Kimbrell, ed., 2002).

<sup>18</sup> Barker, *supra* note 4, at 253.

<sup>19</sup> *Id.*

<sup>20</sup> For example, Canadian farmer Percy Schmeiser was found liable for patent infringement when Monsanto’s genetically modified canola seed blew onto his farm. See *Monsanto Canada Inc. v. Schmeiser*, 2004 SCC 34.

<sup>21</sup> Monoculture farming led to the Irish Potato Famine in the 1800s when Irish farms, which had switched to growing only one species of potato, were devastated by a disease targeting this type of potato. *THE FUTURE OF FOOD* (Lily Films 2004).

<sup>22</sup> Leo Horrigan, et al. *How Sustainable Agriculture Can Address the Environmental and Human Health Harms of Industrial Agriculture* 110 ENVTL. HEALTH PERSP. 445 (2002).

<sup>23</sup> *Id.* at 452.

<sup>24</sup> *Id.* at 450-51.

alarming rates.<sup>25</sup> Several countries have banned the use of certain pesticides due to concerns about their impacts on bees.<sup>26</sup> However, the United States Environmental Protection Agency has been slow to address these concerns sufficiently.<sup>27</sup> This is particularly troubling since an estimated one out of every three mouthfuls of food is dependent upon bee pollination.<sup>28</sup> As bees continue to die off, food prices will increase as food supplies diminish. In the long term, producing food at the expense of the planet can equate to food insecurity, jeopardizing our access to healthy and reliable sources of food.

### **III. The Solution to Food Insecurity**

The real solution to food insecurity lies not in dependence on nonrenewable resources and earth-deteriorating farming practices but in empowering individuals to become food-secure within their communities. One need only look to Cuba to discover how this can be done. Cuba experienced “peak oil” in the late 1980s and early 1990s when the collapse of the Soviet Union and tightening of the U.S. embargo against Cuba caused oil and food imports to drop dramatically.<sup>29</sup> Cuba’s survival response was to convert every inch of arable land for organic food production.<sup>30</sup> Although it took several years for farmers to re-till the soil that the Green Revolution had damaged, organic small-scale agriculture has continued to be an answer to Cuba’s food needs, with most of its fresh produce still being supplied locally.<sup>31</sup> This experience has taught the people of Cuba that if you take care of the land, the land will take care of you.

---

<sup>25</sup> Honey bees are responsible for pollinating \$15 billion worth of crops in the United States each year. Press Release, Natural Resources Defense Council, *EPA Buzz Kill: Is the Agency Hiding Colony Collapse Disorder Information?* (Aug. 18, 2008), [www.nrdc.org/media/2008/080818a.asp](http://www.nrdc.org/media/2008/080818a.asp).

<sup>26</sup> Clothianidin, a pesticide manufactured by Bayer CropScience, was banned in Germany. A similar insecticide was banned in France. *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> THE POWER OF COMMUNITY: HOW CUBA SURVIVED PEAK OIL (The Community Solution 2006).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

Similar collective efforts to respond to times of crisis by way of local food production have sprouted even closer to home. During World War I, United States citizens saw it as their patriotic duty to grow their own food locally so that more of the domestic food supply could be sent overseas.<sup>32</sup> These “Victory Gardens” were revitalized once again in World War II as a way for citizens to aid in the war effort while meeting their dietary needs.<sup>33</sup> Even in our own country, local food production has proven to be a viable solution in times of hardship.

Establishing community food security in response to present-day hardships requires the concerted efforts of everyday citizens and their elected leaders. As constituents, we must lobby our legislators to adopt policy changes in support of local and sustainable food production. The most effective policies will incorporate environmental and health costs into the prices consumers pay for food. Many of the costs associated with producing, packaging, shipping and refrigerating our food are externalized – meaning that they are shifted to society in the form of health and environmental burdens.<sup>34</sup> This results in a net benefit to producers of unsustainable food products and a net detriment to society as a whole.<sup>35</sup> A more equitable way to spread these burdens, and ultimately to lessen them, is to internalize these costs and pass them on to the consumer, thereby encouraging purchasers to consider local food options that may carry lower price tags due to their smaller burdens on health and the environment. Over time, producers will come to realize that industrialized agriculture is not as economical as current policies make it seem.

For the past several decades, the federal government has subsidized commodity crops such as corn, soybeans, wheat and rice in an effort to maximize production, keeping conventional food prices artificially low by passing on the high costs of industrial agriculture to

---

<sup>32</sup> Laura J. Lawson, *CITY BOUNTIFUL: A CENTURY OF COMMUNITY GARDENING IN AMERICA* 118 (2005).

<sup>33</sup> *Id.* at 202.

<sup>34</sup> See Peter Barnes, *CAPITALISM 3.0: A GUIDE TO RECLAIMING THE COMMONS* 19 (2006).

<sup>35</sup> See *id.* at 20.

taxpayers.<sup>36</sup> This policy was adopted during a time of food scarcity.<sup>37</sup> But today, many of these commodity crops are processed into an over-abundance of low-quality junk foods that contribute significantly to chronic diet-related diseases such as obesity, heart disease and diabetes.<sup>38</sup> Current policies discourage farmers from growing healthy foods since crop subsidies are not provided for high-quality fruits and vegetables.<sup>39</sup> Instead of promoting unsustainable farming methods and the production of large amounts of low-quality foods, federal subsidies should encourage farmers to grow a variety of high-quality, organic crops to increase biodiversity and encourage environmental and human health.

Other policies federal and state governments could adopt to promote organic local food production and food security include creating incentives for developers to incorporate farmland into new subdivisions, moderating significant fluctuations in the price of grain by investing in a “strategic grain reserve,” requiring a percentage of government food purchases to come from local and organic sources, prohibiting the purchase of junk food with government food-assistance dollars and teaching ecological farming methods to agricultural students in state universities.<sup>40</sup> Government can also play a key role in educating the public about food choices by highlighting the importance of sustainable farming and a healthy diet.

Although some reform will take place on the national and even state level, a grassroots movement will provide more immediate results as local governments respond to citizen demands for solutions to food insecurity in the form of farmers’ markets, community-supported agriculture and community gardens.<sup>41</sup> To develop these programs, the assistance of local

---

<sup>36</sup> Pollan, *supra* note 15.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Andrew Fisher, *Community Food Security: A Promising Alternative to the Global Food System*, in *THE FATAL HARVEST READER: THE TRAGEDY OF INDUSTRIAL AGRICULTURE* 297 (Andrew Kimbrell, ed., 2002).

governments will be needed to ensure their implementation and long-term survival as solutions to food insecurity. This will require changes to our land use policies as we recognize the importance of providing spaces for communities to grow their own food.

In order for these changes to take place, we need a collective shift in consciousness, a new philosophy of lawmaking that will steer our nation's policymakers to adopt long-term, sustainable solutions to food insecurity. Fortunately, a jurisprudence is emerging that can guide us on the road to developing a socially and ecologically just food system.<sup>42</sup> Termed "Earth Jurisprudence," this philosophy of law recognizes humans as members of a larger Earth Community and seeks creation of legal norms that will foster mutually beneficial human-Earth relationships.<sup>43</sup> Principles of Earth Jurisprudence tell us that, because we are dependent upon the health of the planet to continue producing nutritious food for us to eat, it is imperative that we address food security concerns within the larger context of respecting the natural world and its life-sustaining processes.<sup>44</sup>

One way to develop this human-Earth relationship is by reconnecting to the land. At a time in our nation's history when there are more full-time prisoners than full-time farmers,<sup>45</sup> it is becoming increasingly clear that we are dangerously detached from our sources of food and, consequently, from the land it is cultivated on. Anyone who has spent time on a farm, taking in its smells, marveling at its bounty or reaping of its harvest can appreciate the intimacy with which we are connected to the Earth as a source of life.

---

<sup>42</sup> See Center for Earth Jurisprudence, <http://earthjuris.org> (last visited June 1, 2008).

<sup>43</sup> *Id.*

<sup>44</sup> See Cormac Cullinan, *WILD LAW: A MANIFESTO FOR EARTH JUSTICE* 204-5 (2003).

<sup>45</sup> Eric Schlosser, *FAST FOOD NATION: THE DARK SIDE OF THE ALL-AMERICAN MEAL* 8 (2001).

#### IV. A Case Study – St. Petersburg, Florida

Green Florida, a budding nonprofit organization in St. Petersburg, Florida, is attempting to reconnect citizens of the Bartlett Park community to the land by starting a community garden.<sup>46</sup> According to the American Community Garden Association, a community garden is any piece of land gardened by a group of people.<sup>47</sup> Residents of this diverse, low-income community seek access to healthy, affordable, locally produced food and also seek to improve their overall sense of community.<sup>48</sup> Groundwork for the project is underway. In the coming weeks and months, volunteers will clear the land, erect a fence and install a well.<sup>49</sup> However, a legal foundation is lacking to ensure long-term stability for the garden. St. Petersburg does not allow community gardens as a permitted use in any of its zoning districts and has merely granted a temporary-use permit for the Bartlett Park garden.<sup>50</sup> This permit allows Green Florida to move forward with the project, but the organization fears that it will lose the garden when the permit expires. In an effort to preserve the garden, supporters will petition the city council to change its zoning ordinance to allow community gardens in residential neighborhoods.<sup>51</sup>

Site permanency is a major concern for community gardeners who put a lot of time and effort into beautifying these spaces. In 1996, the American Community Garden Association conducted a survey of 6,020 gardens across the United States.<sup>52</sup> Of these gardens, only 5.3 percent had site permanency via ownership or a land trust.<sup>53</sup> Community garden property is most commonly leased, and usually on city-owned land. In fact, Azalea Community Garden and

---

<sup>46</sup> See Green Florida, [www.green-florida.org/](http://www.green-florida.org/) (last visited June 1, 2008).

<sup>47</sup> American Community Garden Association, <http://communitygarden.org/> (last visited June 1, 2008).

<sup>48</sup> Michael Maharrey, *Happiness To Sprout On a Dreary Lot*, ST. PETERSBURG TIMES, Mar. 12, 2008, [www.sptimes.com/2008/03/12/Neighborhoodtimes/Happiness\\_to\\_sprout\\_o.shtml](http://www.sptimes.com/2008/03/12/Neighborhoodtimes/Happiness_to_sprout_o.shtml).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> American Community Garden Association, *National Community Gardening Survey: 1996* at 4 (1998), available at [www.communitygarden.org/docs/learn/CGsurvey96part1.pdf](http://www.communitygarden.org/docs/learn/CGsurvey96part1.pdf).

<sup>53</sup> *Id.* at 5.

Palmetto Park Community Garden, the only two community gardens currently in St. Petersburg, are both on city-owned property.<sup>54</sup> Such properties are subject to pressures of development, and the city can take away the gardeners' use of the property when "better" or more profitable uses present themselves. For instance, in 1998 New York City Mayor Rudolph Giuliani announced a plan to auction off hundreds of the city's community gardens to affordable housing developers.<sup>55</sup> Like many city officials, Mayor Giuliani saw use of the properties for gardening as only temporary. Garden supporters took to the streets dressed as vegetables and insects to protest the auctions and scrambled to gain ownership of as many gardens as possible or to place them in land trusts to prevent them from being bulldozed.<sup>56</sup>

Gardeners at St. Petersburg's Azalea Community Garden faced a similar challenge in 2006 when the Chabad Jewish Center approached the city about buying the garden property.<sup>57</sup> Green Florida hopes to avoid such potential conflicts by buying the Bartlett Park property outright.<sup>58</sup> Although Green Florida currently leases the garden property from a private landowner and not from the city, such an arrangement still threatens the garden's permanency since a private owner has no legal obligation to allow the garden to continue and, like the city, can be pressured by development.<sup>59</sup> Therefore, it is vital for local governments to develop land use policies that will create permanency for community gardens as an integral part of urban neighborhoods.

---

<sup>54</sup> Alex Pickett, *Looking to Plant in Bartlett Park*, CREATIVE LOAFING TAMPA, Feb. 27, 2008, <http://tampa.creative loafing.com/gyrobase/Content?oid=oid%3A402402>.

<sup>55</sup> Jennifer Steinhauer, *Ending a Long Battle, New York Lets Housing and Gardens Grow*, N.Y. TIMES, Sept. 19, 2002, at A1.

<sup>56</sup> This battle ended four years later when Mayor Giuliani's successor Michael Bloomberg settled on a compromise, preserving approximately 500 gardens while converting others to low-income housing. Residents whose gardens were sacrificed for development found little relief in this agreement. *Id.*

<sup>57</sup> Public outcry eventually halted the sale. Pickett, *supra* note 54.

<sup>58</sup> *Id.*

<sup>59</sup> According to the 1996 National Community Gardening Survey, 35 percent of gardens lost between 1992 and 1996 were lost to public agencies and private owners. *Supra* note 52, at 6.

## **V. The Many Benefits of Community Gardens**

A primary reason community gardens are overlooked as a desirable land use in many city zoning ordinances is that their benefits are hard to quantify. While the sale of a vacant lot to a developer produces immediate monetary gain, the value of a community garden can take many years to materialize and comes in both economic as well as non-economic form.

### **A. Economic Benefits**

#### **1. Increased Property Values**

In 2006, researchers from New York University conducted a study on the impact of community gardens on neighboring property values.<sup>60</sup> They discovered that community gardens have a statistically significant positive impact on residential properties within 1000 feet of gardens, and that this impact increases over time.<sup>61</sup> This makes sense logically since prospective homeowners will be willing to pay more for homes with attractive surroundings. Thus, community gardens are likely to generate long-term financial gain for the city in the form of increased property tax revenue.<sup>62</sup> Since these gains are expected to increase over time, it is advantageous for local governments to ensure the continued use of properties for community gardening in order to achieve maximum economic growth from their presence in city neighborhoods.

---

<sup>60</sup> See Vicki Been & Ioan Voicu, *The Effect of Community Gardens on Neighboring Property Values* (N.Y.U. Sch. of Law, Working Paper No. 46, 2006), available at <http://lsr.nellco.org/nyu/lewp/papers/46>.

<sup>61</sup> Specifically, the gardens studied were found to raise neighboring property values by as much as 9.5 percentage points within five years of the garden's opening. *Id.* at 29.

<sup>62</sup> Results showed that gardens could lead to increases in tax revenues of around \$750,000 per garden over a 20-year period. *Id.*

## 2. Money Saved on Groceries

Additionally, community gardens provide an economic benefit to gardeners who save money on the cost of fresh produce.<sup>63</sup> According to a formula developed by United States Department of Agriculture (USDA) and the National Gardening Association, a 10 x 20-foot garden plot can yield between \$70 and \$540 worth of crops per season, depending on such factors as climate, experience of the gardener, crop density, crop quality and length of season.<sup>64</sup> During the Great Depression, when unemployment rates were high and household budgets tight, families took advantage of this financial incentive and planted “Subsistence Gardens” in an effort to offset food expenses.<sup>65</sup> These gardens helped many Americans weed out hunger during a time of great economic hardship by providing a reliable source of nutritious food. Low-income residents of the Bartlett Park community would benefit greatly from the money saved on groceries. In the absence of land use policies to provide permanence for community gardens, modern-day gardeners face uncertainties as to the long-term ability of gardens to supplement their food budgets.

## 3. Gardens as a Source of Revenue

Community gardeners may also wish to use their gardens as a source of revenue by selling some of their produce. As a response to the earlier economic depression in the United States known as the Panic of 1893,<sup>66</sup> gardens known as “Potato Patches” were used to

---

<sup>63</sup> For instance, an estimated \$8.9 million worth of produce was grown in community gardens in Milwaukee, Wisconsin from 1978-1989. Andrew Bremer et al., *Community Gardens in Milwaukee: Procedures for Their Long-Term Stability & Their Import to the City* 57 (Univ. of Wis.-Milwaukee, 2003), available at [http://neighbor-space.org/documents/UrbanGardens\\_Milwaukee\\_May03.pdf](http://neighbor-space.org/documents/UrbanGardens_Milwaukee_May03.pdf).

<sup>64</sup> Linda Scott Kantor, *Community Food Security Programs Improve Food Access*, 24 FOOD REVIEW 20, 25 (2001), available at [www.ers.usda.gov/publications/FoodReview/Jan2001/FRV24I1d.pdf](http://www.ers.usda.gov/publications/FoodReview/Jan2001/FRV24I1d.pdf).

<sup>65</sup> A nationwide analysis conducted in 1934 reported these gardens had a net return of \$29 million worth of produce. Lawson, *supra* note 32, at 168.

<sup>66</sup> *See id.* at 24.

supplement the income of gardeners through crop sales.<sup>67</sup> Purchasers were willing to pay top dollar for fresh-picked garden produce that was of a much higher quality than what markets had to offer.<sup>68</sup> Although less common today, some community gardeners continue to use their plots as a source of supplemental income. For example, participants in Seattle's Cultivating Communities program take advantage of the economic opportunity to sell their crops through community-supported agriculture whereby subscribing local consumers receive weekly boxes of produce for a fee.<sup>69</sup> The San Francisco League of Urban Gardeners has also created an entrepreneurial gardening program for young adults who produce, market and sell jams, vinegars and salsas made primarily from ingredients grown in their gardens.<sup>70</sup> Although no entrepreneurial programs are planned for the Bartlett Park Community Garden, Green Florida hopes to sell some of the produce at a local farmers' market to help cover garden expenses.

#### **4. Contributions to Food Pantries**

Community gardens have also been known to provide economic benefits to food banks through "Pantry Gardens" that distribute fresh produce to local food pantries, allowing recipients to purchase other items such as fruit and cereal and to increase the variety of meals served.<sup>71</sup> One recipient pantry reported annual savings of about \$2,000 due to vegetable donations from the Field of Dreams pantry garden in Kenosha County, Wisconsin.<sup>72</sup> A Milwaukee County garden even offers free garden plots for recipients to grow their own vegetables.<sup>73</sup> Certainly the pantries

---

<sup>67</sup> *Id.* at 25.

<sup>68</sup> *Id.* at 42-43.

<sup>69</sup> *Id.* at 247-48.

<sup>70</sup> Jerry Kaufman & Martin Bailkey, *Farming Inside Cities: Entrepreneurial Urban Agriculture in the United States* 13 (2000) (unpublished working paper, on file with the Lincoln Institute).

<sup>71</sup> Jill Florence Lackey, *Evaluation of Community Gardens* 46 University of Wisconsin Cooperative Extension (Feb. 1998), available at [www.uwex.edu/ces/pdande/evaluation/pdf/comgardens.PDF](http://www.uwex.edu/ces/pdande/evaluation/pdf/comgardens.PDF).

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 16.

located near these gardens, and those who utilize their services, stand to gain a great deal from land use policies that recognize community gardens as long-term solutions to hunger.

## **B. Non-Economic Benefits**

Perhaps even more valuable are the non-economic benefits community gardens provide to their surrounding neighborhoods. These include benefits to the individual, the environment and the community as a whole. Although difficult to quantify, these benefits should not be overlooked by policymakers since they are vital to any properly functioning society and are often undermined when garden properties are sacrificed to development.

### **1. Benefits to the Individual**

A healthy neighborhood first and foremost requires healthy individuals. A recent survey conducted in Flint, Michigan indicates that participation in a community garden improves fruit and vegetable consumption among adults.<sup>74</sup> High intake of these foods is associated with a reduction in cardiovascular disease,<sup>75</sup> the leading cause of death in the United States in 2005.<sup>76</sup> Because supermarkets are predominately located in wealthier neighborhoods, low-income communities are often deprived of the wide variety and lower prices supermarkets have to offer.<sup>77</sup> The American Heart Association recommends consuming five or more servings per day of a variety of whole fruits and vegetables to maintain a healthy heart.<sup>78</sup> Low-income individuals who are forced to purchase most of their food from nearby convenience stores, which are over-

---

<sup>74</sup> Adults with a household member who participated in a community garden consumed fruits and vegetables 1.4 more times per day than those who did not participate. Katherine Alaimo et al., *Fruit and Vegetable Intake Among Urban Community Gardeners* 40 J. NUTR. EDUC. BEHAV. 94 (2008).

<sup>75</sup> Hsin-Chia Hung et al., *Fruit and Vegetable Intake and Risk of Major Chronic Disease*, 96 J. NAT'L CANCER INST. 1577 (2004).

<sup>76</sup> Hsiang-Ching Kung et al., National Center for Health Statistics, *Deaths: Final Data for 2005*, 56 NAT'L VITAL STATISTICS REPORTS 1, 2 (2008).

<sup>77</sup> Kimberly Morland et al., *Neighborhood Characteristics Associated with the Location of Food Stores and Food Service Places*, 22 AM. J. PREV. MED. 23 (2002).

<sup>78</sup> Ronald M. Krauss et al., *AHA Dietary Guidelines. Revision 2000: A Statement for Healthcare Professionals From the Nutrition Committee of the American Heart Association* 102 (2000).

priced and provide little or no access to healthy food choices, will have difficulty meeting these dietary guidelines. Community gardens can provide these individuals with access to nutritious fruits and vegetables. The Michigan study cited above showed that adults with a household member who participates in a community garden are 3.5 times more likely to consume fruits and vegetables at least five times daily than those without a participating family member.<sup>79</sup> By ensuring the long-term stability of community gardens as a source of nutritious food, local governments will assist their constituents in maintaining healthy diets.

Gardens also grow healthy communities by providing an excellent form of physical exercise.<sup>80</sup> Activities such as digging, raking and weeding improve muscle strength and flexibility and facilitate the burning of calories.<sup>81</sup> According to the United States Surgeon General, people who engage in regular physical activity have healthier cardiovascular, musculoskeletal, respiratory and endocrine systems as well as a healthier distribution of body fat.<sup>82</sup>

Physical activity also enhances psychological well-being by relieving symptoms of depression and anxiety as well as improving mood.<sup>83</sup> Studies have even shown that plants themselves play a role in maintaining mental health.<sup>84</sup> This stems from the satisfaction participants experience from the overall gardening experience such as being outside and seeing things grow, the ability to escape from ordinary routine to the beauty and tranquility of the

---

<sup>79</sup> Alaimo, *supra* note 74.

<sup>80</sup> See Kate H. Brown & Andrew L. Jameton, *Public Health Implications of Urban Agriculture*, 21 J. PUB. HEALTH POL'Y 20, 28 (2000).

<sup>81</sup> For example, one hour of weeding burns approximately 300 calories, the equivalent of walking or bicycling at a moderate pace. M.K. Taylor, *The Healthy Gardener*, 34 FLOWER & GARDEN 46 (1990).

<sup>82</sup> U.S. Department of Health and Human Services, *Physical Activity and Health: A Report of the Surgeon General* 7 (1996).

<sup>83</sup> *Id.* at 8.

<sup>84</sup> See Howard Frumkin, *Beyond Toxicity: Human Health and the Natural Environment*, 20 AM. J. OF PREV. MED. 234, 236 (2001).

garden, and from the joy of the more tangible benefits discussed above.<sup>85</sup> The strong therapeutic effects of gardening led to a new form of mental health treatment called “horticultural therapy,” primarily used today in programs involving the elderly, prisoners and persons with developmental and educational disabilities.<sup>86</sup> This form of therapy was used on soldiers recovering in military hospitals from mental and physical disabilities after World Wars I and II, and also was employed to relieve stress felt by family members who had loved ones overseas.<sup>87</sup> By zoning for community gardens as part of the urban landscape, cities like St. Petersburg will help to ensure the overall health and well-being of their citizens for years to come.

## 2. Benefits to the Environment

Community gardens also sprout priceless environmental benefits from their very early stages of development. Cleaning up the vacant lot to make way for a garden improves the local environment by reducing litter. Vacant lots are often strewn with unsightly trash, including the Bartlett Park property which had long been used as a dumping ground for garbage.<sup>88</sup> Use of the land as a garden will drastically reduce the amount of litter present in the immediate vicinity. In fact, coupled with local recycling efforts, community garden projects can significantly reduce urban solid waste through composting.<sup>89</sup> Food scraps, leaves and lawn clippings can be used as compost for gardening.<sup>90</sup> Consequently, community gardens have the wonderful ability to turn unwanted waste into desirable nutrient-rich soil and food.

---

<sup>85</sup> Rachel Kaplan, *Some Psychological Benefits of Gardening*, 5 ENV'T AND BEHAV. 145 (1973).

<sup>86</sup> Frumkin, *supra* note 84.

<sup>87</sup> Lawson, *supra* note 32, at 120, 186.

<sup>88</sup> Maharrey, *supra* note 48.

<sup>89</sup> Composting is the process of decomposing or breaking down organic waste materials to release beneficial nutrients and turn them into compost which enhances soil properties and promotes plant growth. Resource Centres on Urban Agriculture and Food Security, *CITIES FARMING FOR THE FUTURE: URBAN AGRICULTURE FOR GREEN AND PRODUCTIVE CITIES* 212 (René van Veenhuizen ed., 2006).

<sup>90</sup> Katherine H. Brown et al., *Urban Agriculture and Community Food Security in the United States: Farming from the City Center to the Urban Fringe* 8 (2003), available at [www.foodsecurity.org/urbanagpaper.pdf](http://www.foodsecurity.org/urbanagpaper.pdf).

Composting also protects biodiversity by increasing species variety since all organisms depend on soil nutrients to survive and thrive.<sup>91</sup> Plant and animal diversity contribute to healthy ecosystems by assisting in topsoil formation and improvement and by removing chemicals from the environment through bioremediation.<sup>92</sup> Green spaces such as community gardens that are diverse in vegetative species create pathways for migratory species and provide habitats for pollinators and native wildlife that act as natural pest controls.<sup>93</sup> Healthy ecosystems are vital to human societies, and local governments can help to preserve biodiversity by zoning for natural spaces like community gardens that support the intricate web of life that sustains us all.

Community gardens also promote conservation of precious natural resources. For instance, plant vegetation and mulch help to reduce erosion by protecting fertile topsoil from the harsh impacts of rain and wind.<sup>94</sup> These natural spaces also assist in recharging groundwater resources and flood prevention by providing an alternative to paved surfaces that prevent rain water from percolating into the ground and going through natural filtration and absorption processes.<sup>95</sup> Garden soil and vegetation soak up beneficial nutrients that would otherwise pollute groundwater supplies. Healthy soil and waterways are invaluable to cities, and local governments can use community gardens to help meet their conservation goals.

Community gardens also act as neighborhood thermostats. Cities are often hotter than their surrounding areas due to a phenomenon known as the “urban heat island effect.”<sup>96</sup> The presence of massive amounts of concrete and asphalt as well as the prevalence of heat-generating

---

<sup>91</sup> David Pimentel et al., *Economic and Environmental Benefits of Biodiversity*, 47 *BIOSCIENCE* 747, 754 (1997).

<sup>92</sup> *Id.* at 748, 749.

<sup>93</sup> *Id.* at 752-53, 751.

<sup>94</sup> National Resources Conservation Service, *Conservation Strategies for Growing Communities: Urban Conservation Practices for Protecting and Enhancing Natural Resources* 11 (2004), available at [www.iowastormwater.org/Urban%20Brochure.pdf](http://www.iowastormwater.org/Urban%20Brochure.pdf).

<sup>95</sup> *Id.* at 23.

<sup>96</sup> Anne Whiston Spirn, *THE GRANITE GARDEN: URBAN NATURE AND HUMAN DESIGN* 52 (1984).

devices such as motor vehicles and air conditioners create a virtual heat island.<sup>97</sup> Natural spaces can mitigate this effect. Whereas building materials absorb and retain large amounts of solar radiation, plants and soil store less heat and expend much of what they do take in via evaporation and transpiration, processes that facilitate atmospheric cooling.<sup>98</sup> Thus, gardens can act as neighborhood temperature controls, lowering air-conditioning bills and minimizing discomfort levels. Garden vegetation also has a positive impact on surrounding air quality. Plants filter the air, reduce carbon dioxide and increase oxygen flow.

Community gardens can also reduce a city's ecological footprint by decreasing the need for fossil fuel energy. The food system uses 17 percent of the United States' total energy supply.<sup>99</sup> Fossil fuels are nonrenewable, and their use causes a deleterious impact on the environment and human health.<sup>100</sup> Growing food locally conserves resources by reducing the need for fossil fuel inputs in production, packaging materials, refrigeration and transporting produce over long distances. Petroleum-based fertilizers, pesticides and the use of heavy machinery consume the majority of energy used in farm operations.<sup>101</sup> Community gardens and other small-scale agricultural activities require far less of these inputs by utilizing sustainable, organic farming techniques. Growing produce close to home also eliminates the need for energy-intensive packaging. Consumer demand over the past several years for convenient food packaging has resulted in more energy being used in the manufacturing of packaging than in the

---

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> FOOD, ENERGY, AND SOCIETY 8 (David Pimentel & Marcia Pimentel eds., University Press of Colorado 1996) (1979).

<sup>100</sup> The exploitation of fossil fuels contributes to illness through pollution of local environments and is the leading cause of climate change. Paul Wilkinson et al., *Global Perspectives on Energy*, 370 LANCET 965 (2007).

<sup>101</sup> Animal foods are even more energy intensive than plant foods since the majority of crops produced in the United States are used for animal consumption. John Hendrickson, *Energy Use in the U.S. Food System: A Summary of Existing Research and Analysis* 4, 5 (1997), [www.cias.wisc.edu/pdf/energyuse2.pdf](http://www.cias.wisc.edu/pdf/energyuse2.pdf).

food's production.<sup>102</sup> The need for transportation further increases fossil fuel demands. In the United States, fresh produce travels an average of 1,500 miles from farm to consumer.<sup>103</sup> By growing fruits and vegetables locally, gardeners will virtually eliminate the need for food transport and lengthy refrigeration.<sup>104</sup> With the modern food system producing just one food calorie for every 10 to 15 calories of fossil fuel energy expended,<sup>105</sup> local food production seeks to reduce the input-output ratio of energy by utilizing sustainable methods that will conserve resources and lead to a cleaner and healthier urban environment for generations to come.

### **3. Benefits to the Social Fabric of the Community**

Gardens enhance surrounding neighborhoods by educating youth. In 1891, a movement began to integrate gardening into the United States educational system.<sup>106</sup> "School Gardens" provided a refreshing break from book-based curriculum by encouraging hands-on learning activities that taught students about natural processes and the interrelationship between plants and animals.<sup>107</sup> Although the movement ultimately failed to integrate gardens into schools nationally, school gardens have survived in many parts of the country.<sup>108</sup> These outdoor classrooms teach youth useful gardening skills and values such as responsibility and cooperation. Students learn about where their food comes from and how it grows. They also learn how to nurture and be stewards of the land and develop an appreciation for living things. Children discover the importance of healthy food choices and the value of growing food locally. Providing

---

<sup>102</sup> *Id.* at 6.

<sup>103</sup> *Id.* at 8.

<sup>104</sup> Having fresh local produce on hand will also reduce trips to the grocery store, further reducing the need for fossil fuel energy. *Id.* at 9.

<sup>105</sup> Joan Dye Gussow, CHICKEN LITTLE, TOMATO SAUCE & AGRICULTURE: WHO WILL PRODUCE TOMORROW'S FOOD? (1991).

<sup>106</sup> Lawson, *supra* note 32, at 51.

<sup>107</sup> *Id.* at 57.

<sup>108</sup> California is leading the way in this endeavor with plans to place "a garden in every school." *Id.* at 92, 281.

young people with these valuable lessons and experiences will shape them into responsible adults and leaders, equipped with the tools to guide our communities into a sustainable future.

Community gardens further improve surrounding neighborhoods by reducing crime.<sup>109</sup> Crime can be a major concern for many vacant lots, including the Bartlett Park garden site where police recently banned a group from the property after a nearly fatal fight broke out.<sup>110</sup> In a study of 98 apartment buildings with varying levels of nearby vegetation, researchers discovered that the greener a building's surroundings, the fewer crimes were reported.<sup>111</sup> The study suggested two factors that may have contributed to this finding: 1) vegetation can inhibit crime by increasing neighborhood surveillance and 2) vegetation mitigates psychological precursors to violence.<sup>112</sup> Criminals tend to avoid well-used areas where their activities may easily be observed.<sup>113</sup> Community gardens focus more eyes on the street, thus deterring criminals. And plant life has the ability to improve mental health. Vegetation aids in reducing irritability, inattentiveness and the inability to control impulses, three established factors contributing to violence.<sup>114</sup> Local governments should enlist the unique crime-fighting capabilities of community gardens as a part of their overall crime prevention strategies.

The features of community gardens that make them an asset to their local environments also beautify once vacant and dreary spaces, creating gathering places where members of the community can come together. Community gardens contribute to the overall solidification of the social fabric by bringing individual neighbors together to create safe, positive neighborhoods.

---

<sup>109</sup> See Frances E. Kuo & William C. Sullivan, *Environment and Crime In the Inner City: Does Vegetation Reduce Crime?*, 33 ENV'T AND BEHAV. 343 (2001).

<sup>110</sup> Pickett, *supra* note 54.

<sup>111</sup> The results were statistically significant. Buildings with medium levels of vegetation had 42 percent fewer total crimes than buildings with low levels of vegetation, and buildings with high levels of vegetation had 52 percent fewer total crimes than buildings with low levels of vegetation. Kuo, *supra* note 109, at 359, 355.

<sup>112</sup> *Id.* at 346.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.* at 347.

Social ties among neighbors are strengthened by the existence of common spaces that provide opportunities for informal social contact.<sup>115</sup> One of the most important features of these spaces is the presence of vegetation, which plays a significant role in attracting members of the community to the common area.<sup>116</sup> Community gardens, with their vast array of plant life, have the ability to bring neighbors together for a common purpose. In the garden, people of diverse cultural backgrounds unite to speak the universal language of gardening and share their traditions. This universal language also has the ability to bridge age barriers, allowing older gardeners to pass on their heritage to younger generations and creating a legacy of people who care for and nurture the environment. Community gardens grow more than just fruits and vegetables; they grow relationships, relationships among people and between humans and the natural world.

## **VI. Developing Land Use Policies in Support of Community Gardens**

In light of the great number of benefits community gardens confer upon their surrounding neighborhoods, incorporating gardens into city ordinances is likely to comport with the stated objectives of a vast majority of local governments. For instance, community gardening as a permitted land use is consistent with many of the goals articulated in St. Petersburg's Comprehensive Plan, such as preserving, promoting and improving the public health, safety and welfare, providing adequate recreational facilities and conserving natural resources.<sup>117</sup> In order to promote these aims effectively through community gardens, local governments should seek to include provisions within their governing laws that will give permanence to existing and future community garden sites.

---

<sup>115</sup> Frances E. Kuo et al., *Fertile Ground for Community: Inner-City Neighborhood Common Spaces*, 26 AM. J. CMTY. PSYCHOL. 823, 848 (1998).

<sup>116</sup> *Id.*

<sup>117</sup> ST. PETERSBURG CITY CODE § 16-31(a) (2008).

Luckily, municipalities looking to include community gardens in their land use plans do not have to start from scratch. Local governments across the country have established precedent to guide city planners in the course of protecting these important spaces as part of the urban landscape through a variety of different approaches. St. Petersburg and other cities can look to these innovative guidelines for model language and inspiration.

#### **A. The Comprehensive Plan Model – Seattle, Washington**

Florida's Growth Management Act requires each of the state's municipalities to adopt local comprehensive plans that will guide future development through a series of community goals.<sup>118</sup> The plan may also include specific strategies designed to achieve those goals. All local land use decisions must derive from and be consistent with this plan.<sup>119</sup> The Growth Management Act requires each comprehensive plan to include a conservation element for the conservation, use, and protection of natural resources including air, water, soils, and wildlife.<sup>120</sup> In addition, comprehensive plans must include a recreation and open-space element indicating sites for parks, open spaces, and other recreational facilities.<sup>121</sup> Community gardens fit neatly within each of these required elements. Including community gardens within the conservation and/or recreation and open-space elements of a local government's comprehensive plan can be very useful in establishing them as a permitted land use since zoning ordinances must comport with the objectives stated in the comprehensive plan.

Washington State's Growth Management Act also utilizes comprehensive plans to guide local land development decisions.<sup>122</sup> The City of Seattle's plan legitimizes community gardens as

---

<sup>118</sup> FLA. STAT. § 163.3161 (2007).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.* at § 163.3177(6)(d).

<sup>121</sup> *Id.* at § 163.3177(6)(e).

<sup>122</sup> WASH. REV. CODE § 36.70A (2007).

a valid and desirable land use through its Urban Village Strategy.<sup>123</sup> To enhance this overall strategy, the city has developed an Open Space Network, the goal of which is to:

Provide safe and welcoming places for the people of Seattle to play, learn, contemplate, and build community. Provide healthy spaces for children and their families to play; for more passive activities such as strolling, sitting, viewing, picnicking, public gatherings, and enjoying the natural environment; and for active uses such as community gardening, competitive sports, and running.<sup>124</sup>

Seattle's plan further advocates the growth of this network by including a policy to:

Promote inter-agency and intergovernmental cooperation to expand community gardening opportunities, and include ... community gardening among priorities for use of City surplus property.<sup>125</sup>

These recommendations clearly acknowledge community gardens as long-term beneficial uses within the city. In addition, Seattle's plan includes a goal to provide "one dedicated community garden for each 2500 households in the Village with at least one dedicated garden site."<sup>126</sup>

Similar goals and recommendations should be adopted in comprehensive plans around the country because they would support zoning changes in places like St. Petersburg where community gardens are not currently receiving adequate long-term protections in the city's zoning code.

## **B. The Zoning Designation Model – Cleveland, Ohio**

One of the best ways to ensure garden permanency is to create a zoning designation especially for community gardens. Cleveland, Ohio took this approach when it created an "Urban Garden District."<sup>127</sup> This District was created:

to ensure that urban garden areas are appropriately located and protected to meet needs for local food production, community health, community education, garden-related job training,

---

<sup>123</sup> See Seattle's Comprehensive Plan, *Toward a Sustainable Seattle* viii (2005).

<sup>124</sup> *Id.* at 1.25 ¶ UVG40, UVG38.

<sup>125</sup> *Id.* at 1.27 ¶ UV57.

<sup>126</sup> *Id.* at UV-A5.

<sup>127</sup> CLEVELAND ZONING CODE § 336.01 (2008).

environmental enhancement, preservation of green space, and community enjoyment on sites for which urban gardens represent the highest and best use for the community.<sup>128</sup>

Creation of such a zoning designation makes it possible for a parcel of land to be rezoned as a community garden. Once a parcel is zoned as a community garden, replacing that garden becomes a public process, significantly reducing the likelihood that a desired garden property will be taken over by another use. The Cleveland ordinance describes the permitted main and accessory uses within the Urban Garden District and even proscribes supplemental regulations for such uses including building setback, height and coverage restrictions as well as parking, signage and fencing limitations.<sup>129</sup> St. Petersburg can protect community gardens from development while protecting the city's own aesthetic interests by creating a similar zoning classification with attendant use restrictions.

### **C. The Open Space Model – Boston, Massachusetts**

If St. Petersburg is not ready to make community gardens a part of its comprehensive planning scheme or to create a new zoning district for community gardens, the city should broaden its existing use districts to include community gardens. Many cities that include gardens in their zoning ordinances do so within open space districts. Boston is one such city, establishing community gardens as a subdistrict of its larger open-space designation that can be given to public or private property.<sup>130</sup> The city's code states that this subdistrict:

shall consist of land appropriate for and limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity.<sup>131</sup>

Cities wishing to include community gardens within their zoning regulations should adopt similar language within their open space designations. Prospective garden sites existing outside

---

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* at § 336.03 - 336.05.

<sup>130</sup> BOSTON ZONING CODE § 33-1 (1988).

<sup>131</sup> *Id.* at § 33-8.

of such districts could be rezoned as open space areas according to the local government's procedures for rezoning.

#### **D. The Permitted Use Model – Portland, Oregon**

Not all cities have open space designations within their zoning codes, and others may not perceive rezoning as the best option. In such cases, municipalities must broaden the permitted land use categories within their existing zoning districts to allow community gardens as a permitted use within one or more of those districts. Because the Bartlett Park garden site is located within a residential district and the city has expressed that it does not wish to change the property's zoning designation,<sup>132</sup> it is important for St. Petersburg to recognize community gardens as a permitted use within its residential districts in order to ensure site permanency for the Bartlett Park garden.

Portland, Oregon has written community gardening into its zoning ordinance as a permitted use in all of the city's residential zones. The code includes community gardens within the parks and open areas land use category:

Parks and Open Areas are uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares.<sup>133</sup>

Under the use regulations for residential zones, the ordinance goes on to specify that: "Parks and Open Areas uses are allowed by right."<sup>134</sup> Since community gardens are a permitted land use within residential districts, those wishing to start gardens in these areas need not seek to have the land rezoned. This method provides permanency for gardens while maintaining flexibility, for if sometime in the future gardeners no longer wish to utilize a particular property for gardening, the

---

<sup>132</sup> In any event, changing the zoning designation of the Bartlett Park site would not be beneficial since the city is not ready to allow community gardens as a permitted use in *any* of its current zoning districts. See Maharrey *supra*, note 48.

<sup>133</sup> PORTLAND CITY CODE § 33.920.460(A) (2007).

<sup>134</sup> *Id.* at § 33.110.100(B)(2).

land would already be zoned residential and the zoning designation would not have to be changed. Similar arrangements could be incorporated into the St. Petersburg zoning ordinance.

### **E. The Conditional Use Model – Minneapolis, Minnesota**

Local governments desiring to attach certain conditions to the approval of a community garden as a permissible land use can make gardens a conditional, rather than automatically permitted, use within any given zoning district. Minneapolis, Minnesota has taken this approach. The city allows community gardens in all of its residential use districts.<sup>135</sup> However, gardens must meet the following Specific Development Standards:

- (1) Overhead lighting shall be prohibited.
- (2) Signage shall be limited to a single, non-illuminated, flat sign of four (4) square feet.
- (3) No more than two (2) vehicles shall be parked on-site, excluding those parked within an enclosed structure.
- (4) No retail sales shall be permitted, except as an approved temporary use.<sup>136</sup>

Under this scenario, garden projects failing to meet the stated conditions may have their use of the land revoked. Thus, conditional uses allow local governments to address many of their reservations about allowing community gardens as a permissible land use by making use of the land for gardening contingent upon the satisfaction of requirements the city deems pertinent. Such reservations may include the ability of the garden to supply its own water, the ability of the gardeners to provide for garden maintenance and upkeep, noise and odor concerns and the need for liability insurance.

### **F. The Definition Model – Long Beach, California**

Local governments may also ease some of their worries about undesired uses by including a definition of “community garden” within their zoning codes. Long Beach, California defines a community garden as “a plot of land where flowers, fruits, herbs, or vegetables are

---

<sup>135</sup> MINNEAPOLIS CODE OF ORDINANCES § 546.30 (2008).

<sup>136</sup> *Id.* at § 536.20.

cultivated by individuals of a neighborhood (noncommercial activity).”<sup>137</sup> Such a definition precludes commercial enterprises, such as nurseries, from falling within the scope of a community garden. In addition, the definition could be narrowed even further to permit only organic gardening, thus preventing the application of harmful pesticides and chemicals to garden properties.

## **VII. Conclusion**

Modern agricultural methods are ecologically unsustainable, threatening the long-term security of our food system. Using principles of Earth Jurisprudence, we must adopt policy changes that reconnect communities to the land their food is cultivated on by including community gardens within the urban landscape. To accomplish this, we can follow the lead of cities like Seattle, Boston, Portland and Minneapolis. Although the approaches used by these cities may not be directly transferable to every location, they can be adapted to address each municipality’s specific needs as we work to ensure long-term food security. The important thing to recognize is that each of these models can be used to promote permanency for a valuable asset: community gardens and their priceless dividends for all of the Earth Community.

---

<sup>137</sup> ZONING REGULATIONS OF THE CITY OF LONG BEACH § 21.15.605 (2008).