Urban Agriculture and

# Community Gardens

September 2015

*A Blueprint Developed by the Cass Clay Food Systems Initiative*

# Community Gardens

This issue brief will provide background information related to community gardens and address the common concerns and benefits from a health, environmental, social, and economic standpoint. The brief will also address how local governments can promote, reduce barriers to, and strengthen the community garden system. Appendices have been provided to share how regional jurisdictions are managing their community garden networks, example policy language from other jurisdictions, and a map of area community gardens.

**Background**

A community garden is a plot of land that a group of people garden together. The land can be publicly or privately owned and can be gardened by either the owners of the land or members of the public that join the garden, or both. True community gardens are open to the general public and provide an area to grow fruits and vegetables. These community gardens provide significant benefits to those who do not have access to their own piece of food-producing land.

An issue within the Fargo-Moorhead Metro Area community gardens system is that of the existing community gardens in the area, only seven are available to the general public as plots, also called **allotment gardens**. The other gardens are available only to specific groups, such as New Americans, religious groups, or schools, and are **communal gardens**. (See Appendix C for area community garden map).

To understand the community garden landscape in the F-M area, it is important to note the differences between these two types of community gardens:

Table 1. Differences between allotment and communal gardens

| Allotment | Communal |
|---|---|
| Fee to rent plot | Typically no charge |
| Individual works a small area and gets to keep any produce from that plot | One piece of land gardened by everyone and the produce divided amongst participants. Or, if it is a donation garden, the produce is donated to an organization/group. |
| Typically, one must travel outside of one's neighborhood to reach plot | More likely located in or near one's neighborhood |
| Individual can garden at his/her own convenience | Many in F-M have specific times set aside for gardening; one may not be able to participate if unavailable during that time |
| Individual makes decisions about what to grow | Decide as a group what to grow |

Another challenge is that the seven allotment gardens are not well dispersed. The following are those gardens:

Table 2. Allotment gardens open to the public in the FM metro area

| Garden Name | Address | Notes |
|---|---|---|
| Cooper Community Gardens | 1101 4th Ave N, Fargo | Five plots for non-profit donation and the remaining open to the public. $25 each. |
| Dilworth Community Garden | 7th Street and 3rd Ave NE, Dilworth | Available to Dilworth residents. No charge. |
| Dilworth Lutheran Church | 406 NE 3rd St, Dilworth | Plots open to anyone in the community. Free of charge, but they ask that individuals donate 10% of the produce. |
| McKinley Youth Garden | 30th Ave N and 10th St N, Fargo | $10 per plot. Garden intended for youth. Must have a youth to purchase plot. |
| Oak Grove Park Community Garden | Wildflower Grove Park, Fargo | $35 full plot / $20 half plot. |
| Probstfield Organic Community Garden | 11th St N/Oakport St and 43rd Ave N, Moorhead | $40 per plot. |
| Yunker Farms Community Garden | 1201 28th Ave N, Fargo | $20 per plot. Does not provide water. On Fargo Parks and Rec land. |

Table 3. Summary of community garden approval in local jurisdictions (as of June 2015)

| Moorhead | Dilworth | Clay County | Fargo | West Fargo | Cass County |
|---|---|---|---|---|---|
| Not addressed | Not addressed* | Not addressed | Permitted** | Permitted in select zones*** | Permitted in select zones**** |

**Since it is not specifically permitted within a zone district, it would be considered prohibited unless otherwise approved via the conditional use process. It allows for some discretionary powers with the City Administrator to review for compliance/compatibility with zoning districts and/or applicability of conditional use regulations.*
*** Community gardens are permitted within all zoning districts with the exception of the General Industrial (GI) zoning district. In the Public and Institutional (P/I) zoning district, community gardens are permitted with conditions.*
****Residential non-commercial gardening is permitted use in the A district. This use is not addressed in any of the other districts.*
*****Community gardens fall under parks and open spaces and are generally permitted by right within most zoning districts. Dimensional standards (minimum lot size, setbacks, etc.) would vary depending on the zoning district and individual township.*

Table 4. Framework for evaluating community gardens

| DOMAIN | BENEFIT | CONCERN |
|---|---|---|
| Health | Stress-relief by lowering cortisol levels[1]<br>Exercise; moderately-intense exercise cuts stroke and heart attack risk in seniors[2]<br>May reduce dementia/Alzheimer's risk[3]<br>Boosts mental health; may improve depression symptoms[4]<br>Increases vitamin D exposure from sun exposure<br>Increases food security for residents<br>Access to fresh, healthy food<br>Promotes healthy eating<br>Increases outdoor activities | |
| Environment | Restores oxygen to the air<br>Increases recycling of compost and yard trimmings<br>Filters rainwater<br>Provides a diversity of urban plants for pollinators | |
| Social | Promotes positive social interactions<br>Increases a sense of community ownership and stewardship<br>Promotes intergenerational and cross-cultural connections<br>Provides opportunities to meet neighbors<br>Increases awareness of the food cycle and connection to agriculture<br>Provides a positive family activity<br>Beautifies the neighborhood<br>May increase the amount of fresh produce donated to local food pantries<br>Reduces crime and vandalism in parks and communities | Aesthetically unpleasing for some residents<br>Possible neighborhood or group tension if people disagree on how to run the garden |

[1] Van Den Berg AE, Custers, M. 2011. Gardening Promotes Neuroendocrine and Affective Restoration from Stress. Journal of Health Psychology. 16(1): 3-11. doi: 10.1177/1359105310365577

[2] Topping, A. 2013. Gardening as good exercise in cutting hear attack risk, study shows. The Guardian [online]. [accessed 09 April 2015]. http://www.theguardian.com/society/2013/oct/28/gardening-exercise-cutting-heart-attack-risk-diy-60-plus

[3] Simons LA, Simons J, McCallum J, Friedlander Y. 2006. Lifestyle factors and risk of dementia: Dubbo Study of the elderly. Medical Journal of Australia. 184(2):68-70.

[4] Harding A. 2011. Why gardening is good for your health. CNN [online]. [accessed 09 April 2015]. http://www.cnn.com/2011/HEALTH/07/08/why.gardening.good/

| | | |
|---|---|---|
| Economic | Provides inexpensive produce for area residents<br><br>May increase property values near community gardens (In Milwaukee, property values increased when located within 250 feet of gardens.[5]) | Jurisdiction cost of administering the community garden system or monitoring and addressing issues |

*A concern that does not fit into our four-part framework regards the sustainability of community garden management. A common concern is how a garden will function after a leader/volunteer's life cycle has ended if there is no central body administering the community garden program.*

The following are examples from other communities regarding how their local governments have promoted and strengthened the local community garden system:

1. Create a municipal garden program[6]
    a. Seattle's P-Patch Community Garden Program, which resides in the city's parks and rec department, acquires land with open space funds to increase community garden availability. There are currently more than 54 operating community gardens throughout Seattle. The accompanying P-Patch Trust works to acquire, build, and preserve the gardens along with providing advocacy, educational, and outreach programs.
2. Create a municipally funded not-for-profit organization
    a. Chicago's NeighborSpace, funded and operated through the City, Parks District, and Forest Preserve District, acquires property to preserve land for community gardens. The program acts as a land trust for community gardens and accepts liability for each site.
3. Allow zoning for community gardens
    a. Boston established a specific community garden zoning category as a sub-district within an open space[7] zoning district. (See Appendix B for policy)
4. Create a community garden committee
    a. San Francisco has a community gardens policy committee to implement community garden objectives from the city's general plan.
5. Provide an accessible inventory of all vacant public and private lots and open space
    a. New York City's Open Accessible Space Information System Cooperative is a collaboration of federal, state, city nonprofit and private organizations that provide online maps of open space in NYC. Local and state departments provide data and information services, and the USDA Forest Service and Natural Resources Conservation services were founders and funders.
6. Utilize grant funding for community gardens, such as the Federal Government's Community Development Block Grant (CDBG)
    a. CDBG was created to help cities and states meet the needs of low and moderate-income residents by providing better housing, a suitable living environment, and expanding economic opportunities.
    b. Madison, WI uses some of its CDBG funds to support its community garden network. https://www.cityofmadison.com/cdbg/docs/brochure_G.pdf
7. Provide tax breaks for property owners who are willing to turn their uninhabited land into farms

[5] Bremer, A., Jenkins, K. & Kanter, D. (2003). Community Gardens in Milwaukee: Procedures for their long-term stability & their import to the city.– Milwaukee: University of Wisconsin, Department of Urban Planning.

[6] Local Government Commission. Cultivating Community Gardens: The Role of Local Government in Creating Healthy, Liveable Neighborhoods. [accessed online 11 June 2015]. http://nccommunitygarden.ncsu.edu/RoleLocalGov.pdf

[7] Open space: property zoned for public recreational uses or an area to be left in a generally natural state; consult local ordinances for specific jurisdictional definition and requirements.

a. In San Francisco, the property owner's land is assessed at the current tax rate for the state's irrigated farmland (about $12,500 per acre in 2013[8]). (See Appendix B for policy)

8. Other
    a. Cities, including Boston, Philadelphia, Providence (RI), and New York City have begun using land trusts to acquire and preserve community gardens.
    b. Des Moines, IA has a community garden program that allows the establishment of community gardens on city right-of-ways and city real property. (See Appendix B for policy)

## Resource

If you have questions, please contact Kim Lipetzky with the Fargo Cass Public Health Office at 701-241-8195 or klipetzky@cityoffargo.com.

[8] Bland, A. 2014. NPR [online] Tax Breaks May Turn San Francisco's Vacant Lots Into Urban Farms. Accessed 2015 May 26. http://www.npr.org/sections/thesalt/2014/09/09/347141038/tax-breaks-may-turn-san-franciscos-vacant-lots-into-urban-farms

# Appendix A: Garden Management in Regional Jurisdictions

**Bismarck, ND**
Bismarck Parks and Recreation Department provides land use, water & hoses, and spring & fall tilling for two community garden locations. The City provides composting dumpsters for participants. They have a volunteer garden coordinator and have not had any issues with having the gardens on Parks land. They do not have a detailed budget for these gardens; water and labor cost for tilling come out of the Park's general maintenance budget. They are open to providing more community gardens on Parks land, and due to high demand, they have plans for a new garden next year.
http://bisparks.org/facilities/community-gardens/?doing_wp_cron=1434257656.0033879280090332031250

**Duluth, MN**
Duluth Community Garden Program (DCGP) is a non-profit that administers 17 community garden sites. They rent the plots on a sliding fee scale where gardeners pay based on their income.
http://www.duluthcommunitygarden.org/index.html

**Grand Forks, ND**
The Grand Forks Park District has a 50-plot community garden on Park's land. These plots are managed and coordinated by a Park's staff horticulturist. The Park District provides maintenance by tilling in the spring and fall and landscaping the garden's perimeter. Parks also supplies the water and hoses and will add participants' compost piles to their own bins at the end of the season. They do not have a budget set aside but make enough money from the plot fees ($40 for a 20' x 40' plot) to cover water, tilling, and staking. This site is on an old tree farm, so instead of opening up other Park's land, they expand this site every year. Even with expanding, they get about 40 new individuals calling each year to rent a plot and have to turn away about half of them. Another option for local gardeners is renting a plot from All Seasons Garden Center, a local business that has about 100 garden plots available.
http://www.grandforksherald.com/content/community-garden-concept-catches-grand-forks

**Lincoln, NE**
Community Crops is a non-profit organizations that administers 12 community garden sites. The have 5 full-time staff, 3 AmeriCorps members, and community volunteers. They are funded by local and national sources such as foundations, the Community Development Block Grant (mentioned above), USDA programs, individuals and businesses. Plot fees are assessed on a sliding scale and funding assistance is available.
http://www.communitycrops.org/

**Mankato, MN**
Heart & Soil Community Gardens, a grassroots community-driven group, has a single pilot garden starting this year (2015). The City is providing park property and the garden is funded by a mini-grant. The organizers' goal is to have 20 community gardens by the year 2020.

**Minneapolis, MN**
Gardening Matters, an independent non-profit serving the Twin Cities and Minnesota, manages a database of community gardens to easily connect gardeners with their local garden networks. The organization provides online resources, holds community events, advocates for supportive public policy, and remains a central hub for supporting and strengthening neighborhood garden networks. They also provide training and resources for those who would like to start a new community garden and are funded by individuals and foundations.
http://www.gardeningmatters.org/

**Rochester, MN**
The City has two community garden sites administered by the Parks and Recreation Department. They also have four or five smaller community gardens maintained by Neighborhood Associations. The Parks Department provides the land, till in the spring and mow in the fall. They do not provide water to any of the sites. For the two larger

community garden sites, the Parks Department will mow down plots that are not being weeded or tended. They allow composting on site but do not provide composting bins. They do not have a specific budget for community gardens; it comes out of the general operations budget. They are open to more community gardens on Parks land, as long as they have a strong volunteer leader who can keep it maintained.
http://www.rochestermn.gov/departments/parks-and-recreation/rentals-reservations/garden-plots

**Sioux Falls, SD**
The community garden network is a cooperative effort involving the Minnehaha County Master Gardeners, South Dakota State University Extension, the City of Sioux Falls (Parks Department), and community volunteers. The Master Gardeners Club and Extension run the program and the Parks Department provides the land. Three community gardens are located on Parks land and five are located on other land (business or church property). The Parks Department handles the application process, while the Master Gardeners Club pays an honorarium for water ($50 per community garden per year), tills, and maintains the gardens.
https://www.siouxfalls.org/parks/parks/community-gardens.aspx

# Appendix B: Example Ordinances

**Boston, MA**
ARTICLE 33
OPEN SPACE SUBDISTRICTS
(;Article inserted on March 8, 1988)
SECTION 33-1. Preamble. This article supplements the creation of an open space district (OS) designation, which under Text Amendment No. 101 can be given to public lands or, with the written consent of the owner, to private property. The open space district and nine open space subdistricts, taken together, present a comprehensive means for protecting and conserving open spaces through land use regulations. The open space (OS) designation and an open space subdistrict designation can be used in conjunction with each other, thus establishing for the land so designated the particular restrictions of one of the subdistricts: community garden, parkland, recreation, shoreland, urban wild, waterfront access area, cemetery, urban plaza, or air-right. Land can be given the OS designation, however, without the simultaneous designation of a particular subdistrict, such as "park" or "garden," where the desired subdistrict designation is yet to be determined. This system instills flexibility into the regulation of open space.
SECTION 33-8. Community Garden Open Space Subdistricts. Community Garden open space (OS-G) subdistricts 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; such land may include Vacant Public Land.
http://www.bostonredevelopmentauthority.org/getattachment/cf439d3c-76ed-42ea-89d0-eaf0917468c3

**Cleveland, OH**
§ 336.01 Urban Garden District
The “Urban Garden District” is hereby established as part of the Zoning Code to ensure that urban garden areas are appropriately located and protected to meet needs for local food production, community health, community education, garden-related job training, environmental enhancement, preservation of green space, and community enjoyment on sites for which urban gardens represent the highest and best use for the community.
(Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)
§ 336.02 Definitions
(a) “Community garden” means an area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or donation. Community gardens may be divided into separate plots for cultivation by one (1) or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.
(b) “Market garden” means an area of land managed and maintained by an individual or group of individuals to grow and harvest food crops and/or non- food, ornamental crops, such as flowers, to be sold for profit.
(c) “Greenhouse” means a building made of glass, plastic, or fiberglass in which plants are cultivated.

(d) “Hoophouse” means a structure made of PVC piping or other material covered with translucent plastic, constructed in a “half-round” or “hoop” shape.

(e) “Coldframe” means an unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

(Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)

§ 336.03 Permitted Main Uses

Only the following main uses shall be permitted in an Urban Garden District:

(a) Community gardens which may have occasional sales of items grown at the site;

(b) Market gardens, including the sale of crops produced on the site.

(Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)

§ 336.04 Permitted Accessory Uses

Only the following accessory uses and structures shall be permitted in an Urban Garden District:

(a) Greenhouses, hoophouses, cold-frames, and similar structures used to extend the growing season;

(b) Open space associated with and intended for use as garden areas;

(c) Signs limited to identification, information and directional signs, including sponsorship information where the sponsorship information is clearly secondary to other permitted information on any particular sign, in conformance with the regulations of Section 336.05;

(d) Benches, bike racks, raised/accessible planting beds, compost bins, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, chicken coops, beehives, and children’s play areas;

(e) Buildings, limited to tool sheds, shade pavilions, barns, rest-room facilities with composting toilets, and planting preparation houses, in conformance with the regulations of Section 336.05;

(f) Off-street parking and walkways, in conformance with the regulations of Section 336.05.

(Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)

§ 336.05 Supplemental Regulations

Uses and structures in an Urban Garden District shall be developed and maintained in accordance with the following regulations.

(a) Location. Buildings shall be set back from property lines of a Residential District a minimum distance of five (5) feet.

(b) Height. No building or other structure shall be greater than twenty-five (25) feet in height.

(c) Building Coverage. The combined area of all buildings, excluding greenhouses and hoophouses, shall not exceed fifteen percent (15%) of the garden site lot area.

(d) Parking and Walkways. Off-street parking shall be permitted only for those garden sites exceeding fifteen thousand (15,000) square feet in lot area. Such parking shall be limited in size to ten percent (10%) of the garden site lot area and shall be either unpaved or surfaced with gravel or similar loose material or shall be paved with pervious paving material. Walkways shall be unpaved except as necessary to meet the needs of individuals with disabilities.

(e) Signs. Signs shall not exceed four (4) square feet in area per side and shall not exceed six (6) feet in height.

(f) Seasonal Farm Stands. Seasonal farm stands shall be removed from the premises or stored inside a building on the premises during that time of the year when the garden is not open for public use.

(g) Fences. Fences shall not exceed six (6) feet in height, shall be at least fifty percent (50%) open if they are taller than four (4) feet, and shall be constructed of wood, chain link, or ornamental metal. For any garden that is fifteen thousand (15,000) square feet in area or greater and is in a location that is subject to design review and approval by the City Planning Commission or Landmarks Commission, no fence shall be installed without review by the City Planning Director, on behalf of the Commission, who may confer with a neighborhood design review committee, if one exists, so that best efforts are taken to ensure that the fence is compatible in appearance and placement with the character of nearby properties.

(Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)

**Des Moines, IA**

ARTICLE VII. - GARDENS AND PLANTS ON CITY-OWNED RIGHT-OF-WAY AND CITY PROPERTY

Sec. 74-201. - Garden leases.

(a) Persons or entities desiring to plant or place flowers, plants, or shrubs in a permanent structure on any city right-of-way or city real property shall execute a garden lease which identifies all areas of the proposed planting or placement, and shall abide by the terms of such lease, including insurance and indemnification responsibilities, if any,

established by the city risk manager. Persons or entities executing a garden lease shall be exempt from the permit requirements of section 102-660 of this Code.
(b) The garden lease shall be denied if such plantings or placement is likely to create a public danger or nuisance or would be harmful to existing trees, shrubs, flowers, plants or facilities, as determined by the city engineer.
(c) For purposes of this article, city right-of-way means the surface and space above and below any public street, boulevard or sidewalk, but does not include the border area as defined in section 102-1 of this Code and governed by section 102-2 of this Code.
(d) Persons or entities desiring to maintain city property that abuts their property or is located on neighboring property shall execute a lease which shall set forth the duties associated with the use of the property.
(O.14,314, 14,366)
Sec. 74-202. - Administration.
The park and recreation director shall be responsible for the administration of the garden leases. The director of the park and recreation department, or his or her designee, is authorized to execute garden leases on city right-of-way and other city real property on behalf of the city and may delegate any or all of his or her duties under this article.

**Kansas City, MO**
88-312-02-B. Community Garden
An area of land managed and maintained by a group of individuals to grow and harvest food and/or horticultural products for personal or group consumption or for sale or donation. A community garden area may be divided into separate garden plots for cultivation by one or more individuals or may be farmed collectively by members of the group. A community garden may include common areas (e.g., hand tool storage sheds) maintained and used by the group. The Community Garden must comply with the lot and building standards for its zoning district. All chemicals and fuels shall be stored in an enclosed, locked structure when the site is unattended. Community garden group members may or may not reside on the subject property. Sales and donation of only whole, uncut, fresh food and/or horticultural products grown in the community garden may occur on-site on otherwise vacant property, but may not occur on residentially zoned and occupied property, except property zoned R-80. Row crops are not permitted in the front yard of a residentially zoned and occupied property, except property zoned R-80, if whole, uncut fresh food and/or horticultural products grown in the community garden are donated or sold onsite. “Row crops” shall be defined as grain, fruit or vegetable plants, grown in rows, which are 24 inches or more in height. “Row crops” shall not mean cultivated or attended trees, bushes, or shrubbery less than 6 feet in height, or trees in excess of 6 feet in height, and shall not include grain, fruit or vegetable plants that are part of the front yard’s borders, that extend no more than 5 feet from the side property lines or from the front of the principal building. A community garden may be a principal or accessory use. Any area of land that is managed and maintained in a manner that fits within the description of Community Supported Agriculture in 88-312-02-C cannot be considered to be a Community Garden.
http://www.cityfarmer.info/2010/06/10/local-groups-pleased-with-new-kansas-city-urban-agriculture-codes/

**San Francisco, CA**
Assembly Bill No. 551, Chapter 406
An act to add Chapter 6.3 (commencing with Section 51040) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Section 402.1 of, and to add Section 422.7 to, the Revenue and Taxation Code, relating to local government.
[ Approved by Governor September 28, 2013. Filed with Secretary of State September 28, 2013. ]
LEGISLATIVE COUNSEL'S DIGEST
AB 551, Ting. Local government: urban agriculture incentive zones.
(1) Existing law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law authorizes the parties to a Williamson Act contract to mutually agree to rescind a contract under the act in order to simultaneously enter into an open-space easement for a certain period of years.
This bill would enact the Urban Agriculture Incentive Zones Act and would authorize, under specified conditions and until January 1, 2019, a city, county, or city and county and a landowner to enter into a contract to enforceably restrict the use of vacant, unimproved, or otherwise blighted lands for small-scale production of agricultural crops and animal husbandry. The bill would require a contract entered into pursuant to these provisions to, among other things, be for a term of no less than 5 years and to enforceably restrict property that is at least 0.10 acres in size.

(2) Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected. Under existing law these restrictions include, but are not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would require the county assessor to value property that is enforceably restricted by a contract entered into pursuant to the Urban Agriculture Incentive Zones Act at the rate based on the average per-acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture. The bill would also require the State Board of Equalization to post the per-acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its Internet Web site within 30 days of publication, and to provide the rate to county assessors no later than January 1 of each assessment year.

DIGEST KEY

Vote: majority  Appropriation: no  Fiscal Committee: yes  Local Program: no

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BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Chapter 6.3 (commencing with Section 51040) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.3. Urban Agriculture Incentive Zones

51040.

This chapter shall be known, and may be cited, as the Urban Agriculture Incentive Zones Act.

51040.1.

The Legislature finds and declares that it is in the public interest to promote sustainable urban farm enterprise sectors in urban centers.

The Legislature further finds and declares the small-scale, active production of marketable crops and animal husbandry, including, but not limited to, foods, flowers, and seedlings, in urban centers is consistent with, and furthers, the purposes of this act.

51040.3.

For purposes of this chapter, the following terms have the following meanings:

(a) “Urban” means an area within the boundaries of an urbanized area, as that term is used by the United States Census Bureau, that includes at least 250,000 people.

(b) “Urban Agriculture Incentive Zone” means an area within a county or a city and county that is comprised of individual properties designated as urban agriculture preserves by the county or the city and county for farming purposes.

(c) “Agricultural use” means farming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry, agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

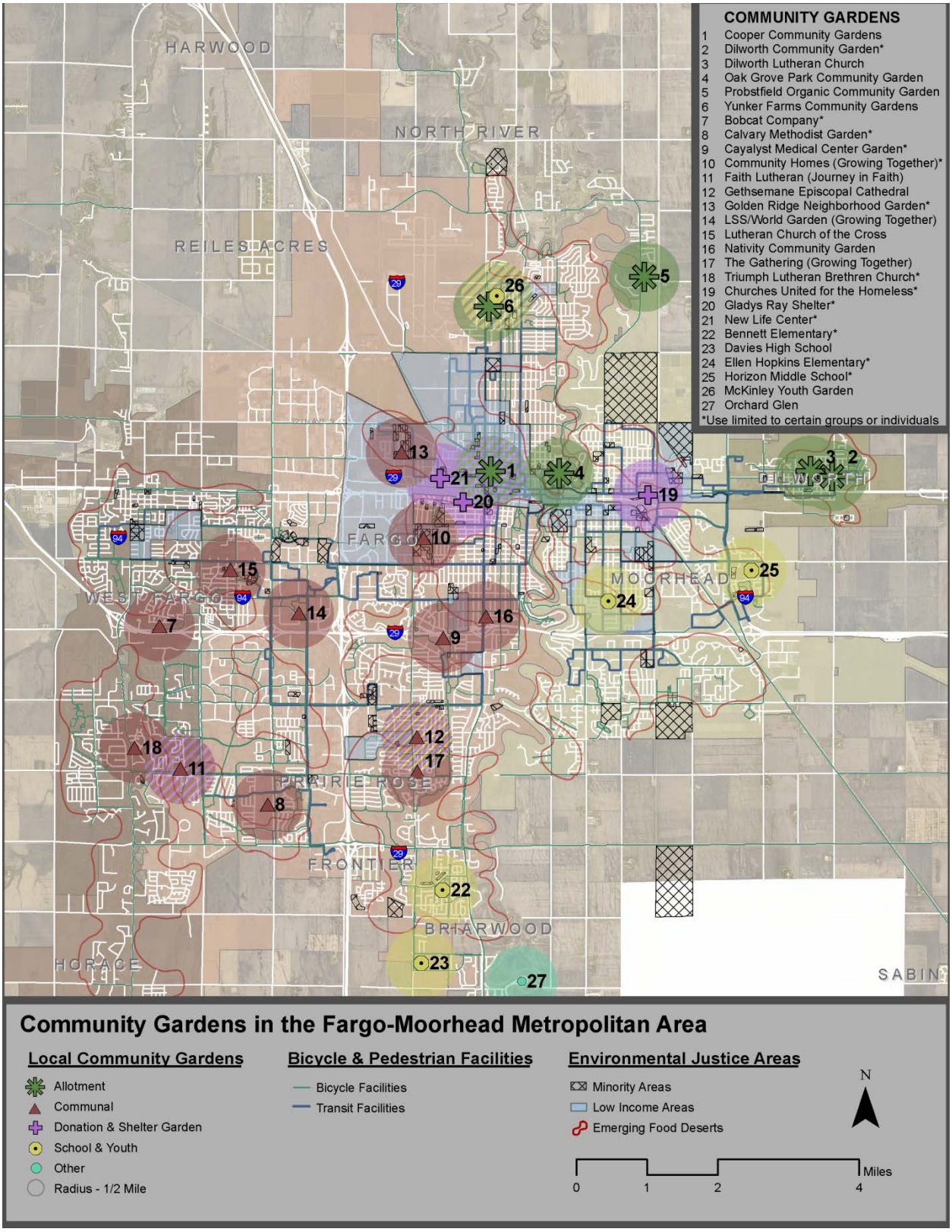
51042.

(a) (1) (A) A county or city and county may, after a public hearing, establish by ordinance an Urban Agriculture Incentive Zone within its boundaries for the purpose of entering into enforceable contracts with landowners, on a voluntary basis, for the use of vacant, unimproved, or blighted lands for small-scale agricultural use.

(B) A city may, after a public hearing and approval from the board of supervisors of the county in which the city is located, establish by ordinance an Urban Agriculture Incentive Zone within its boundaries for the purpose of entering into enforceable contracts with landowners, on a voluntary basis, for the use of vacant, unimproved, or blighted lands for small-scale agricultural use.

(2) Following the adoption of the ordinance pursuant to paragraph (1), a city, county, or city and county that has established an Urban Agriculture Incentive Zone within its boundaries may adopt rules and regulations consistent

with the city, county, or city and county's zoning and other ordinances, for the implementation and administration of the Urban Agriculture Incentive Zone and of contracts related to that Urban Agriculture Incentive Zone.
(A) The city, county, or city and county may impose a fee upon contracting landowners for the reasonable costs of implementing and administering contracts.
(B) The city, county, or city and county shall impose a fee equal to the cumulative value of the tax benefit received during the duration of the contract upon landowners for cancellation of any contract prior to the expiration of the contract, unless the city, county, or city and county makes a determination that the cancellation was caused by extenuating circumstances despite the good faith effort by the landowner.
(b) Following the adoption of the ordinance as required by subdivision (a), a city, county, or a city and county may enter into a contract with a landowner to enforceably restrict the use of the land subject to the contract to uses consistent with urban agriculture. Any contract entered into pursuant to this chapter shall include, but is not limited to, all of the following provisions:
(1) An initial term of not less than five years.
(2) A restriction on property that is at least 0.10 acres, and not more than three acres.
(3) A requirement that the entire property subject to the contract shall be dedicated toward commercial or noncommercial agricultural use.
(4) A prohibition against any dwellings on the property while under contract.
(5) A notification that if a landowner cancels a contract, a city, county, or city and county is required to assess a cancellation fee, pursuant to subparagraph (B) of paragraph (2) of subdivision (a).
(c) A contract entered into pursuant to this chapter shall not prohibit the use of structures that support agricultural activity, including, but not limited to, toolsheds, greenhouses, produce stands, and instructional space.
(d) A contract entered into pursuant to this chapter that includes a prohibition on the use of pesticide or fertilizers on properties under contract shall permit those pesticides or fertilizers allowed by the United States Department of Agriculture's National Organic Program.
(e) A city, county, or city and county shall not enter into a new contract, or renew an existing contract pursuant to this chapter after January 1, 2019. Any contract entered into pursuant to this chapter on or before January 1, 2019, shall be valid and enforceable for the duration of the contract.
(f) Property subject to a contract entered into pursuant to this chapter shall be assessed pursuant to Section 422.7 of the Revenue and Taxation Code during the term of the contract.
(g) A county or a city and county shall not establish an Urban Agriculture Incentive Zone within any portion of the spheres of influence of a city unless the legislative body of the city has consented to the establishment of the Urban Agriculture Incentive Zone.
(h) A city, county, or city and county shall not establish an Urban Agriculture Incentive Zone in any area that is currently subject to, or has been subject to within the previous three years, a contract pursuant to the Williamson Act (Article 1 (commencing with Section 51200) of Chapter 7 of Part 1 of Division 1 of Title 5).
SEC. 2.
Section 402.1 of the Revenue and Taxation Code is amended to read:
402.1.
(a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:
(1) Zoning.
(2) Recorded contracts with governmental agencies other than those provided in Sections 422, 422.5, and 422.7.
(3) Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.
(4) Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.
(5) Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.
(6) Environmental constraints applied to the use of land pursuant to provisions of statutes.
(7) Hazardous waste land use restriction pursuant to Section 25240 of the Health and Safety Code.
(8) A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the

Internal Revenue Code that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.
(9) A solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190) of Part 1 of Division 1 of Title 5 of the Government Code.
(b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.
(c) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.
(d) In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.
(e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.
(f) For the purposes of this section the following definitions apply:
(1) “Comparable lands” are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.
(2) “Representative sales information” is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.
(g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land that legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. This statute shall not be construed as requiring the assessment of any land at a value less than as required by Section 401 or as prohibiting the use of representative comparable sales information on land under similar restrictions when this information is available.
SEC. 3.
Section 422.7 is added to the Revenue and Taxation Code, to read:
422.7.
(a) For purposes of this section, the term “open-space land” includes land subject to contract for an urban agricultural incentive zone, as defined in subdivision (b) of Section 51040.3 of the Government Code. For purposes of this section, open-space land is enforceably restricted within the meaning of Section 8 of Article XIII of the California Constitution if it is subject to an urban agriculture incentive zone contract.
(b) (1) Open-space land subject to contract for an urban agricultural incentive zone pursuant to Section 52010.3 shall be valued for assessment at the rate based on the average per-acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture.
(2) Notwithstanding the published rate, the valuation resulting from the section shall not exceed the lesser of either the valuation that would have resulted by a calculation under Section 110, or the valuation that would have resulted by a valuation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.
(c) The State Board of Equalization shall post the per-acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its Internet Web site within 30 days of publication, and shall provide the rate to county assessors no later than January 1 of each assessment year.
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB551

# Appendix C: Map of Area Community Gardens