



# Access to Healthy Food:

Challenges and Opportunities

A Policy Options Brief  
June 2012





# Access to Healthy Food:

Challenges and Opportunities

A Policy Options Brief  
June 2012



AT WILLIAM MITCHELL COLLEGE OF LAW

Suggested citation: Public Health Law Center  
*Access to Healthy Food: Challenges and Opportunities* (2012).



Public Health Law Center  
875 Summit Avenue  
St. Paul, Minnesota 55105-3076  
651.290.7506 · Fax: 651.290.7515  
[www.publichealthlawcenter.org](http://www.publichealthlawcenter.org)

June 2012

This publication was prepared by the Public Health Law Center at William Mitchell College of Law, St. Paul, Minnesota, with financial support provided by the American Cancer Society – Cancer Action Network.

This issue brief is provided for educational purposes only and is not to be construed as legal advice or as a substitute for obtaining legal advice from an attorney. Laws and rules cited are current as of the issue brief's publication date. The Public Health Law Center provides legal information and education about public health, but does not provide legal representation. Readers with questions about the application of the law to specific facts are encouraged to consult legal counsel familiar with the laws of their jurisdictions.

#### Acknowledgements

The Public Health Law Center thanks research assistant Jennifer Pelletier, MPH, for her assistance in writing and reviewing this article. The Public Health Law Center also thanks Dr. Marilyn S. Nanney, PhD, MPH, RD, Assistant Professor in Family Medicine/Community Health Division of Epidemiology & Community Health of the University of Minnesota School of Public Health for her critical review and feedback.

# Table of Contents

<b>Overview</b> .....	<b>1</b>
<b>Part I: Access to Healthy Food</b> .....	<b>2</b>
Relationship Between Access to Healthy Food and Obesity .....	5
Other Benefits of Increased Access to Healthy Food .....	5
Discussing Access to Healthy Food .....	6
<i>Key Components of the Food Environment</i> .....	6
<i>Food Insecurity</i> .....	7
<i>“Food Deserts” and “Food Swamps”</i> .....	7
<i>Food Supply and Production Systems</i> .....	8
<i>Cost of Healthy versus Unhealthy Food</i> .....	8
<i>Food Settings</i> .....	9
<b>Part II: Legal and Policy Initiatives to Increase Access to Healthy Food</b> .....	<b>11</b>
Food Procurement Practices .....	12
<i>Collective Purchasing</i> .....	13
<i>Local Food Preference</i> .....	13
<i>Nutrition Standards</i> .....	14
Local Land Use Planning and Zoning Initiatives .....	14
<i>Land Use Planning</i> .....	14
<i>Zoning</i> .....	15
Permits/Licensing .....	15
Financing and Tax Incentives .....	16
Local Healthy Food Initiatives .....	16
<i>Healthy Community and Local Government Resolutions</i> .....	16
<i>Regional/Local Food Hubs</i> .....	17
<b>Summary</b> .....	<b>19</b>
<b>Annotated List of Key Organizations Involved in Healthy Food Access</b> .....	<b>20</b>
<b>Endnotes</b> .....	<b>23</b>



## Overview

This document provides public health advocates, policymakers, and community organizers with an overview of key policy and legal strategies being pursued to reduce or prevent obesity by increasing access to healthy food. These strategies can support efforts to develop and implement policies that will increase access to healthy food and reduce obesity.

Often referred to as an “obesity epidemic,” the increased prevalence of obesity in the past three decades has affected health outcomes, quality of life, and health costs in the United States; and is becoming one of the most pressing public health issues in

the United States today. According to the U.S. Centers for Disease Control and Prevention (“CDC”), more than two-thirds of American adults and one-third of American youth are now obese or overweight. High rates of obesity are largely responsible for the United States’ declining health outcomes and rapidly rising healthcare costs. If trends continue, some experts predict that seventy-five percent of Americans will be overweight or obese by 2018.<sup>1</sup>

Obesity-related conditions make up several of the leading causes of death in the United States. Obesity increases the risk of over twenty major chronic diseases; leads to reduced quality of life and life expectancy; and increases health costs associated with treating these chronic health conditions.<sup>2</sup> Health conditions associated with obesity include: cardiovascular disease; colon cancer, prostate cancer, breast cancer, and numerous other cancers; type 2 diabetes; asthma; hypertension; depression; sleep apnea; joint problems; and liver disease.<sup>3</sup> Obesity, unhealthy diets, and lack of physical activity are estimated to be responsible for one-third of all cancer deaths in the United States.<sup>4</sup> Children are especially vulnerable to the medical risks associated with being overweight or obese.<sup>5</sup> The Institute of Medicine (“IOM”) has indicated that today’s children may actually have a reduced quality of life and a lower life expectancy than their parents as a direct result of being overweight or obese.<sup>6</sup>

While obesity is increasing in all segments of the U.S. population, some ethnic and racial groups have higher levels of obesity than others.<sup>7</sup> Adult obesity rates are also linked to household income and educational background, with higher rates of obesity among the poor and those with less education.<sup>8</sup> Because obesity carries many health risks, these disparities have important health consequences for the groups involved. Not surprisingly, the higher rates of obesity in these populations are closely linked to a much greater prevalence of chronic disease.<sup>9</sup>



## MEASURING AN INDIVIDUAL'S WEIGHT

Overweight and obesity are defined by an individual's body mass index or "BMI," which is a ratio of weight (in kilograms) to height (in meters, squared). Among adults (over age 20 years) BMI between 25 and less than 30 indicates overweight, and a BMI greater than or equal to 30 indicates obesity. There are differing levels for obesity as BMI increases: grade 1 is a BMI of 30 to 34.9, grade 2 is a BMI of 35 to 39.9, and grade 3 is a BMI of 40 or higher.

Assessing overweight and obesity among children and adolescents (age 2 to 20 years) requires comparing the BMI of the child or adolescent to the percentile distribution of BMI among children and adolescents of the same age and sex. Children and adolescents are determined to be at a normal weight if their BMI falls between the 5th and 85th percentile of their peers. BMI between the 85th to less than the 95th percentile indicates overweight and BMI of equal to or greater than the 95th percentile indicates obesity.

### Source

See INST. OF MED. OF THE NAT'L ACAD., *ACCELERATING PROGRESS IN OBESITY PREVENTION: SOLVING THE WEIGHT OF THE NATION* 43 (Glickman et al. eds., 2012).

Reversing the increasing prevalence of obesity will require multi-faceted and coordinated action across disciplines. According to the IOM, "[t]he substantial and long-term human and societal costs of obesity; the great difficulty of treating this problem once it has developed; and the relatively slow progress made thus far in turning the national obesity numbers around underline the urgent need to develop a plan for accelerating progress in obesity prevention."<sup>10</sup> Until recently, most initiatives to stem the steady increase in obesity have focused on changing individual behaviors, without system-wide or policy-based interventions.<sup>11</sup> Given the failure of this approach, there is a growing consensus that reversing the trend requires policy initiatives that go beyond changing individual behaviors.

A critical strategy that has been identified to reduce obesity is increasing access to healthy food.<sup>12</sup> A 2011 IOM workshop

on hunger and obesity stressed the importance of increasing the availability of healthy food; reducing prices of healthy food; and promoting healthier choices to maximize the purchase of healthier food options.<sup>13</sup> A year later, the IOM identified access to healthy food as one of the five key strategies to solving the nation's obesity crisis. As part of its seminal report, *Accelerating Progress in Obesity Prevention: Solving the Weight of the Nation*, the IOM identified the goal to "[c]reate food and beverage environments that ensure that healthy food and beverage options are the routine, easy choice."<sup>14</sup>

## Part I: Access to Healthy Food

The lack of access to healthy food is believed to be a key factor contributing to the obesity epidemic. Laws and policies promoting access to healthy food and limiting access to unhealthy food are critical tools in addressing the obesity epidemic. Federal, state, and local legal and policy initiatives can play an important role in increasing the availability and affordability of healthy food in a variety of settings, including: home, work, school, and other settings.



Federal legal and policy initiatives can have a significant impact on improving access to healthy food. For example, in 2012 the U.S. Department of Agriculture (“USDA”) updated the minimum nutrition standards for the National School Lunch and School Breakfast Programs. These updates bring the programs in line with more recent scientific evidence and national recommendations on what food should be included for a healthy diet for children across different age groups.<sup>15</sup> Improvements in the nutritional quality of food offered through the school lunch and school breakfast programs will ensure that America’s school children have access to healthier food at school.

State and local governments can also be instrumental in promoting access to healthy food through different policy and legal initiatives. State and local laws and policies can: set minimum nutrition standards for food served in different settings; regulate the use of *trans* fats in restaurant food; and tax sugary beverages to decrease consumption. For instance, Delaware recently launched a statewide Healthy Eating

## ACCESS TO HEALTHY FOOD

This discussion refers to “food access” as the combination of the *availability* and *affordability* of high quality, healthy food in different settings. Availability means that healthy food is physically present on store shelves, in vending machines, on restaurant menus, in farmers’ markets, and in school and organizational food facilities. Affordability means that healthy food is priced low enough to be purchased and consumed on a regular basis. The quality of available food means that the food, particularly fresh produce, is fresh, in a good condition and free of contamination, spoilage, blemishes, or damage. Low affordability of healthy food can result in *food insecurity*, a situation in which individuals’ ability to acquire healthy food is limited or uncertain.

### Source

GARY BICKEL ET AL., GUIDE TO MEASURING HOUSEHOLD FOOD SECURITY, Revised 2000 6 (2000) available at <http://www.fns.usda.gov/fsec/FILES/FSGuide.pdf>.



Initiative called “Munch Better at Delaware State Parks,” which will offer healthy food items for sale, including vending machines items, at Delaware’s state parks. In addition, local governments can use zoning or licensing laws and incentive programs to regulate the location and density of fast food outlets or to promote the availability of healthy food in neighborhood corner stores. In one example, Cleveland, Ohio passed an ordinance banning restaurants and food makers in the city from using “industrially produced” *trans* fats in food products.<sup>16</sup>

Organizations and employers are also using policy tools to promote healthy eating environments for their members or employees. Organizational and worksite policies promoting access to healthy food can include healthy vending initiatives that require all food sold in vending machines to meet specific nutrition standards. Likewise, those policies can include healthy food purchasing standards for food served at organizational or worksite events. These policies promote the availability of healthy food at worksites and support employees’ efforts to eat healthier food throughout the workday. For example, many hospitals are implementing strategies to create healthier food and beverage environments in their facilities. Some strategies being promoted by hospitals include: creating healthy vending criteria; reducing advertising of unhealthy beverages; increasing access and signage for public drinking water on hospital grounds; and shifting pricing structures to encourage healthy beverage choices.<sup>17</sup>

## Relationship Between Access to Healthy Food and Obesity

Healthy food environments encourage healthy dietary choices. Likewise, unhealthy food environments encourage unhealthy dietary choices. Adopting healthier behaviors is often difficult when the environment makes unhealthy food convenient, inexpensive, and appealing.<sup>18</sup> Research on food access has found the following to be associated with less healthy diets and/or a higher risk of obesity:

- Eating food away from home, particularly fast food;<sup>19</sup>
- Living in a community with a higher density of fast food restaurants;<sup>20</sup>
- Living in a community with fewer supermarkets, more convenience stores, and/or lower availability of affordable healthy food in nearby stores;<sup>21</sup>
- Attending a school near a fast food restaurant<sup>22</sup> or convenience store;<sup>23</sup> and
- Attending a school with access to *à la carte* food and snack vending machines.<sup>24</sup>

Preliminary evidence also indicates that participating in farmers' markets, community supported agriculture (also called "CSAs"), and community gardens may increase the amount and variety of fresh produce that people consume.<sup>25</sup> However, more research is needed on how healthy food retail outlets and cost of healthy food influence diets.<sup>26</sup> There is conflicting research and uncertainty regarding the relationship between BMI and access to healthy food.<sup>27</sup> As noted by the USDA:<sup>28</sup>

Obesity is a complex problem with many causes. Evidence presented here suggests that while some studies find a correlation between food accessibility and BMI and obesity, the causal pathways are not well understood. Lack of access to specific nutritious food may be less important than relatively easy access to all other food. "Food swamps" may better explain increases in BMI and obesity than "food deserts." Increasing access to specific food like fruits and vegetables, whole grains, and low-fat milk alone may not make a dent in the obesity problem. Many of the stores that carry these nutritious foods at low prices also carry all the less healthy foods and beverages as well. Without also changing the dietary behaviors of consumers, interventions aimed at increasing access to healthy foods may not be successful in addressing obesity. [internal citations deleted]

## Other Benefits of Increased Access to Healthy Food

There are several non-dietary benefits associated with increasing access to healthy food. Opening new grocery stores can increase foot traffic and contribute to economic revitalization in underserved neighborhoods.<sup>29</sup> Farmers' markets can create a space for social interaction; foster a sense of community; and provide economic benefits to local farmers and local businesses located near the market.<sup>30</sup> Gardening provides an opportunity to be active, which may help adults meet recommended levels of physical activity.<sup>31</sup>

## HEALTHY FOOD

Healthy food means different things to different people. In this discussion, healthy food is defined as food that meets the *2010 Dietary Guidelines for Americans* and promotes general health and the maintenance of a healthy weight.<sup>1</sup> This includes whole food such as fruits, vegetables, and whole grains; food low in calories, fat, sugar, and refined grains; and lean protein sources such as poultry, fish, and beans.<sup>2</sup>

### Sources

1. USDA & U.S. DEP'T OF HEALTH AND HUMAN SERV., *DIETARY GUIDELINES FOR AMERICANS 2010* at i (2010) available at <http://www.cnpp.usda.gov/dietaryguidelines.htm>.
2. Lawrence H. Kushi, *American Cancer Society Guidelines on Nutrition and Physical Activity for Cancer Prevention: Reducing the Risk of Cancer With Healthy Food Choices and Physical Activity*, 62 CAL: CANCER J. CLINICIANS 30, 39 (2012).

## Discussing Access to Healthy Food

A variety of state, local, and national players are involved in current conversations about increasing access to healthy food in different settings. Some of these include: public health advocates, city officials, business interests, community non-profits, state legislatures, and school stakeholders. Each group approaches the issue from a different perspective. For public health advocates to understand the opportunities to increase access to healthy food, it is important to be familiar with current conversations about the relationship between obesity and access to healthy food.

The following discussion introduces some of the current dialogue

amongst public health advocates on these topics regarding the interplay between obesity and access to unhealthy food and strategies to increase access to healthy food in different settings.

### Key Components of the Food Environment

The USDA identified key components of the food environment and created a tool reflecting the general access communities across the United States have to healthy food by evaluating the following aspects of a community's food environment:<sup>32</sup>

- Access and Proximity to Grocery Stores
- Availability of Food Stores
- Availability of Restaurants
- Expenditures on Food at Restaurants
- Food Assistance
- Food Eaten at Home
- Food Insecurity
- Food Prices (at stores not restaurants)
- Food Taxes
- Health
- Local Food
- Physical Activity Levels and Outlets
- Socioeconomic Characteristics

These food environment factors interact to influence food choices and diet quality of individuals and communities.

## Food Insecurity

Community food insecurity is generally understood to be a community’s lack of reasonable access to affordable quality food. USDA describes the ranges of food security and food insecurity as follows:<sup>33</sup>

General categories (old and new labels are the same)	Detailed categories		
	Old label	New label	Description of conditions in the household
Food security	Food security	High food security	No reported indications of food-access problems or limitations
		Marginal food security	One or two reported indications — typically of anxiety over food sufficiency or shortage of food in the house. Little or no indication of changes in diets or food intake.
Food insecurity	Food insecurity without hunger	Low food security	Reports of reduced quality, variety, or desirability of diet. Little or no indication of reduced food intake.
	Food insecurity with hunger	Very low food security	Reports of multiple indications of disrupted eating patterns and reduced food intake.

Food insecurity disproportionately affects minority and lower income communities<sup>34</sup> and is an important contributor to the risk of chronic diseases in these communities.<sup>35</sup>

### “Food Deserts” and “Food Swamps”

“Food deserts” and “food swamps” are related terms that are commonly used to refer to areas which lack access to healthy food. Both food deserts and food swamps are often related to food insecurity.

The 2008 Farm Bill defines a food desert as an “area in the United States with limited access to affordable and nutritious food, particularly such an area composed of predominantly lower income neighborhoods and communities.”<sup>36</sup> In general, food deserts refer to areas with few or no grocery stores that provide healthier items at lower prices than smaller corner stores. Food deserts usually have large numbers of convenience and corner stores which tend to have a limited availability of healthy food and higher prices for healthier food.<sup>37</sup> The way a food desert is measured (e.g., how far away from a grocery store an area or an individual residence

must be, what is considered “affordable and nutritious food,” etc.) differs across studies. A national study by the USDA found that 23.5 million people live in low-income areas that are more than one mile from a supermarket or large grocery store.<sup>38</sup>

In urban areas, food deserts are more likely to be found in poor neighborhoods and in predominantly African American neighborhoods.<sup>39</sup> In rural areas, food deserts tend to lack transportation infrastructure that would allow residents to access healthier food outlets that are far from their homes.<sup>40</sup> Without access to grocery stores or other food stores that stock a variety of healthy items at affordable prices, residents of communities in food deserts may have difficulty accessing healthy food such as fruits and vegetables, whole grains, and low-fat dairy products.

In contrast, a “food swamp” is defined as “a geographic area where the overabundance of high-energy food (for example, caloric snacks sold at convenience stores) inundate[s] healthy food options.”<sup>41</sup> Some believe that the lack of access to nutritious food may be less important to improving consumption of healthy food than reducing the relatively easy access to unhealthy food. According to this theory, the prevalence of unhealthy food found in “food swamps” may better explain increases in BMI and obesity than the lack of access to healthy food characterized by “food deserts” as the prevalence of unhealthy food at low prices can impede efforts to promote the consumption of the available healthy food.<sup>42</sup>

## **Food Supply and Production Systems**

Most food is produced on large, industrial farms that grow only a few different crops. The owner, manager, and farm worker are all separate people. The food from large industrial farms is typically transported long distances from where it is grown to where it is eaten, and much of it is processed into manufactured products before it reaches the consumer.<sup>43</sup>

In contrast to this, an alternative or local food network is used to describe emerging ways of getting food that rely on smaller producers and focus on local networks for buying and selling food. These networks often include farmers’ markets, produce stands, mobile farm stands, on-farm stores, local food hubs, “pick your own” plots, and community supported agriculture initiatives.<sup>44</sup> Alternative food networks are experiencing significant growth in the United States as consumers seek alternative sources for their food. For example, as of mid-2011, there were 7,175 farmers’ markets operating throughout the U.S., representing a seventeen percent increase from 2010.<sup>45</sup>

## **Cost of Healthy versus Unhealthy Food**

There is a common perception that eating healthy food costs more than eating unhealthy food.<sup>46</sup> This perception is generally based on a comparison of the cost per calorie of different food, without considering the nutritional value of the food eaten. This approach to calculating the cost of food assumes that the ability to purchase more calories for a lower price is the best way to compare the cost of different types of food. With the rise in obesity in the United States, there is a growing awareness that an accurate assessment of the price of food may need to go beyond the cost per calorie approach to evaluating the price of healthy versus unhealthy food. This updated approach would also incorporate the nutritional value of the food sold.



The USDA recently issued a report comparing the prices of healthy and less healthy food using three different approaches to better assess whether healthier food is actually more expensive than less healthy food. This report examines the price of food from three different approaches:<sup>47</sup>

- Cost of food from the price per calorie or food energy (\$/calorie);
- Price per edible weight of food (\$/100 edible grams); and
- Price per average-portion size of food.

The results of this analysis show that the actual cost of healthier food is not necessarily higher than unhealthy food. The study found that the cost of food is generally dependent on the specific food compared.<sup>48</sup> When nutritional quality is factored into the equation, healthier food may actually be cheaper in comparison to unhealthy food.

## Food Settings

Food settings can be thought of as the different types of places that people obtain food. How a food setting is defined can be based on a number of overlapping considerations, including:

- Where the food is consumed (work, school, home, hospital, church, etc.);
- Where the food is purchased or obtained (restaurant or fast food establishment, corner or grocery store, vending machine, food bank, etc.); and
- Who has the ability to regulate the food (city, county, private organization, hospital, school board, etc.).

This discussion will highlight the overlapping nature of these concepts, but will focus on the key primary places where people obtain food: the retail food environment; the workplace or organizational food environment; and the school food environment.

### *Retail Food Environment*

The retail food environment consists of a broad food system where food is purchased by the general public. The retail food environment includes food retail outlets such as grocery stores and corner stores; restaurants and fast food establishments; and alternative food networks such as farmers' markets and community supported agriculture initiatives. In some cases the retail food environment overlaps with workplace food environments. For example, restaurants and grocery stores are both worksites and retail food environments. Some of the issues related to the availability and affordability of healthy food in retail environments include:<sup>49</sup>

- Distance and transportation to supermarkets/grocery stores;
- Cost and availability of healthy food in existing small/corner stores;
- Availability and visibility of healthy options at restaurants and in vending machines; and
- Presence of alternative food networks such as farmers' markets, community-supported agriculture, food hubs and gardening.

The lack of access to healthy food can be particularly difficult for low-income urban neighborhoods when large grocery store chains migrate to the suburbs. When this happens, small neighborhood grocery stores or convenience stores frequently become the sole source of food for community residents. These food retailers generally do not provide the same selection, quality, or low price for healthy food as larger grocery stores provide.<sup>50</sup> Likewise, access to healthy food can be challenging in rural areas due to the longer distances between residences and grocery store chains offering a wider selection of healthier items.<sup>51</sup> High fuel or transportation costs, lack of transportation, and poor quality of healthier food items can create significant hurdles impacting the ability of low-income neighborhoods in both urban and rural areas to access healthy food.

### *Workplace and Organizational Food Environment\**

Workplace and organizational food environments include: public, private, and non-profit settings. These settings can have a significant impact on the access individuals have to healthy food. Over 140 million Americans are employed,<sup>52</sup> spending on average eight hours per day working,<sup>53</sup> making worksites key settings where people eat. Other types of organizations such as places of worship, hospitals, and child care centers may also serve food to their members and clients. Some of the issues related to the availability and affordability of healthy food in workplace and organizational environments include:<sup>54</sup>

- Nutritional quality of food in vending machines, cafeterias, on-site food services, organizational events, and other organizational food;

\*The organizational environment discussed here includes workplaces, places of worship, hospitals, child care providers, courts and other organized public spaces. Early care and education providers are discussed separately from the K-12 school environment due to the highly regulated nature of food available in the K-12 public school system which does not generally apply to child care centers.

- Alternative ways of sourcing food, such as farm-to-fork initiatives and employer gardens; and
- Prices of healthy food options relative to unhealthy options.

### *School Food Environments*

The food environment in primary and secondary schools is unique as a result of the many federal and state legal requirements under which they operate. Children may consume over half of their required daily calories at school if they eat both school breakfast and school lunch.<sup>55</sup> As a result, the school food environment is a powerful influence in children's diets.<sup>56</sup> Improving access to

healthy food and beverages in the school environment is a primary focus for public health advocates seeking to reduce the prevalence of overweight and related health issues in children and adolescents. Some of the issues related to access to healthy food in schools include:

- Nutritional quality of food served in federal school nutrition programs, which must follow federal guidelines;<sup>57</sup>
- Nutritional quality of competitive food<sup>58</sup> served outside of school nutrition programs (e.g., *à la carte* cafeteria food, vending machines, school stores and snack bars, concessions stands, and fundraising efforts);<sup>59</sup> and
- Alternative ways of sourcing food, such as farm-to-school programs and school gardens.<sup>60</sup>



## **Part II: Legal and Policy Initiatives to Increase Access to Healthy Food**

Public health professionals and obesity prevention advocates are exploring and implementing a wide range of policy and legal initiatives to improve access to healthy food in retail environments, organizations and workplaces, and schools.

Some of the key legal and policy issues being pursued to increase access to healthy food include:

- Food Procurement Practices;
- Land Use Planning and Zoning Initiatives;
- Local Permits and Licensing;

## STATE AND LOCAL GOVERNMENT AUTHORITY AND PREEMPTION

When considering healthy food access laws and regulations, stakeholders and policymakers must determine which level(s) of government may have the authority to regulate a particular setting and what that authority covers. This can be especially true for local governments because their authority to pass laws to address public health concerns has often been targeted for “preemption.”

Preemption refers to a situation where one level of government limits, or even eliminates, the power of a lower level of government to regulate a certain issue. Federal preemption can come from an act of Congress, an agency regulation, an executive order, or even a treaty. These federal laws can preempt state and local laws, including lawsuits based on state or local laws. Similarly, state laws can preempt local laws, including ordinances, board of health rules, zoning codes, and other types of local law. If a law is preempted, that means it has no force or effect.

Preemption can impact a local government’s ability to implement public health strategies that are different from or go beyond existing state and federal laws.<sup>1</sup> Preemption has been used to block the implementation of some pioneering obesity prevention initiatives, including state and local menu labeling laws and local *trans* fat bans.<sup>2</sup>

### Sources

1. NATIONAL POLICY AND LEGAL ANALYSIS NETWORK TO PREVENT CHILDHOOD OBESITY & PUBLIC HEALTH LAW CENTER, FUNDAMENTALS OF PREEMPTION (2010) available at <http://publichealthlawcenter.org/sites/default/files/resources/nplan-fs-fundamentals-2010.pdf>.
2. For additional information see, Public Health Law Center, *Preemption in Public Health*, <http://www.publichealthlawcenter.org/topics/other-public-health-law/preemption-public-health>

- Financing and Tax Incentives; and
- Local Healthy Food Policies.

Policy and legal initiatives can address both the practical limitations and legal implications impacting access to healthy food. The following discussion identifies some of the most promising policy initiatives being pursued around the country. This is not an exhaustive list, and there can be considerable overlap amongst these identified areas (for example, a *trans* fat ban can be accomplished through food procurement practices or local zoning and licensing ordinances).

### Food Procurement Practices

Public and private organizations obtain or source food in different ways, including: buying food; receiving donated food; growing food; etc. How organizations obtain food is also called the “procurement” of food. Organizations (both governmental and non-governmental), workplaces, and schools serve food to large numbers of people and have the potential to increase access to healthy food by adopting and enforcing nutrition standards for food that is purchased, sold, or otherwise made available. Many schools, worksites, hospitals, catering

companies, restaurants, faith-based groups, and local governments are implementing healthy food initiatives to promote healthy eating, through collective purchasing initiatives, local food preference, and healthy nutrition standards.

## Collective Purchasing

Collective purchasing is a promising food procurement approach used by some schools, government agencies, community organizations, and small grocery/convenience stores. The idea is to lower the cost of healthy food by pooling purchasing power to negotiate lower prices from food vendors. Purchasing food collectively allows schools, worksites, child care centers, government agencies, stores, and others to purchase healthy food at lower prices.<sup>61</sup> Some examples of collective purchasing initiatives promoting access to healthy food include:

- **Group Purchasing Organizations** — The Alliance for a Healthier Generation has agreements with three national group purchasing organizations to provide competitively bid food contracts based on national purchasing volumes for schools.<sup>62</sup>
- **School District Buying Groups** — School districts are joining together to create buying groups, in which members decide together what products they wish to purchase and collectively solicit and award food contracts. An example of this can be seen in the Minnesota School Food Buying Group.<sup>63</sup>
- **Collective Corner Store Purchasing** — GrowNYC connects corner stores in New York City with a wholesaler that sells produce from farmers in the region. By establishing one central delivery point for the farmers, corner stores are able to purchase local food at affordable prices.<sup>64</sup>



## Local Food Preference

Local food preference is a tool that gives food suppliers in a specified geographic area an advantage in the procurement process.<sup>65</sup> Local food initiatives can be seen in farm-to-school, farm-to-fork, and farm-to-preschool programs. The federal government now allows schools to increase their purchases of local products by applying a “geographic preference” to their food purchasing decisions.<sup>66</sup> This allows schools to increase their farm-to-school programs and increase the purchase of local produce even if the local produce is not the lowest

price available. The growth in applying a local food preference to school food can be seen in Minnesota where the number of Minnesota school districts with a farm-to-school program rose from fewer than twenty districts in 2006 to 145 districts in 2011.<sup>67</sup>

## Nutrition Standards

Establishing minimum nutrition standards for food that is available in retail environments, organizations (both governmental and non-governmental), workplaces, and schools can be an effective strategy to reducing access to unhealthy food and improving access to healthy food. Schools, government agencies, and non-governmental entities can set nutrition guidelines for food and beverages sold in vending machines, cafeterias, and restaurants to consumers, students, and the workforce. Some examples of healthy nutrition standards which have been implemented include:

- *Trans* fat bans in restaurants in Philadelphia and New York City;<sup>68</sup>
- Comprehensive food procurement policies in New York City, Massachusetts, and San Francisco;<sup>69</sup>
- Competitive food standards for school districts in Massachusetts and Los Angeles Unified School District;<sup>70</sup>
- Sugar-sweetened beverage bans in Massachusetts hospitals, including Carney Hospital in Dorchester, Massachusetts and Fairview Hospital in Great Barrington, Massachusetts;<sup>71</sup> and
- Fast food establishment bans in Los Angeles.<sup>72</sup>



## Local Land Use Planning and Zoning Initiatives

Local governments, including towns, cities, and counties, have the power to control and regulate the use of land within their borders through land use planning and zoning initiatives.<sup>73</sup>

### Land Use Planning

Local governments are increasingly addressing the regional food system and local pockets of food insecurity in the comprehensive land use planning process. According to the American Planning Association, land use planning has not traditionally incorporated a consideration of the food system because of the prevailing view that the food system interacts only indirectly with the built environment and does not deal with public resources, such as air and water, or public investment, such

as highways or parks. In addition, there has been a perception that the food system was functioning well.<sup>74</sup> However, some local governments are beginning to include food system planning in their comprehensive land use planning process.

Madison, Wisconsin has incorporated food systems and food security considerations into the region's comprehensive plan. Within its comprehensive plan, the city includes policies to: encourage community supported agriculture initiatives; promote locally grown food; and protect existing community gardens, coupled with incentives for new community gardens.<sup>75</sup>

## **Zoning**

Zoning is the specific means through which local governments regulate the use of land. Local governments are usually given the authority to enact zoning laws from the state. Local zoning ordinances typically regulate what can be built on the land and how something looks and is used.

Zoning laws are increasingly being used to improve the food environment in communities by: regulating the location and density of fast food restaurants in neighborhoods and near schools; eliminating barriers to community gardens and farmers' markets; and creating sign codes to eliminate excessive advertisement of unhealthy food. Examples of policy and legal initiatives using zoning ordinances to improve access to healthy food include:

- Prohibitions on fast food or drive-in restaurants in Concord, Massachusetts “to lessen congestion in the streets . . . [and] to preserve and enhance the development of the natural, scenic and aesthetic qualities of the community;”<sup>76</sup>
- Restricting the location of fast food restaurants in relation to schools, churches, public recreational areas, and residential lots in Arden Hills, Minnesota.<sup>77</sup>
- Creating an “Urban Garden District” in Cleveland, Ohio “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.”<sup>78</sup>

## **Permits/Licensing**

State and local governments often issue permits and licenses to regulate different types of food establishments and food vendors. The authority of a state or local government to issue a license or permit regulating a food establishment depends on the state and local jurisdiction and the type of food establishment being regulated. Generally, some type of permit or license is required for most food establishments and food vendors, including: vending machines, farmers' markets, mobile food vendors, restaurants, and corner stores. Licensing and permitting requirements for unprocessed food, such as produce, vary depending on state-specific standards. Some states do not require unprocessed food to be licensed if it is sold by the farmer growing the food.<sup>79</sup> Local licensing and permitting requirements can be used to promote access to healthy food. Some examples of permitting and licensing initiatives to promote access to healthy food include:

- A local ordinance in Cleveland, Ohio mandating that any farmers' market using public land such as sidewalks and streets, accept EBT payments. As a result of this ordinance, all farmers' markets in Cleveland, Ohio accept EBT payments, expanding access to healthy food by low-income residents receiving EBT.<sup>80</sup>
- A Staple Food Ordinance in Minneapolis, Minnesota that established minimum requirements of perishable food for certain corner, grocery and specialty food stores.<sup>81</sup> This ordinance requires impacted stores licensed under the ordinance to offer for sale food for home preparation and consumption. Impacted stores must stock at least three varieties of qualifying, non-expired or spoiled, food in each of four staple food groups, including: vegetables and/or fruits; meat, poultry, fish and/or vegetable proteins; bread and/or cereal; and dairy products and/or substitutes.

## **Financing and Tax Incentives**

State and local governments can use financing and tax incentives to promote access to healthy food. Financing and tax incentives can be used to: increase access to healthy food through small loans and grants to corner stores to purchase refrigeration for fresh produce; financing for start-up costs for grocery stores in food deserts; funding to farmers' markets to increase the use of EBT; reductions in real estate and sales taxes to developers and store operators to encourage new grocery stores; and exemptions from property taxes for community gardens.

Some examples of how financing and tax incentives can be used to promote access to healthy food can be seen in:

- A USDA grant to the Florida Department of Children and Families to increase the use of EBT cards at local farmers' markets.<sup>82</sup>
- The reduction of real estate and sales taxes in New York City for developers and store operators to encourage new grocery stores.<sup>83</sup>
- The exemption of certain established community gardens in Washington, D.C. from property taxes.<sup>84</sup>

## **Local Healthy Food Initiatives**

Local governments are increasingly developing comprehensive local healthy food initiatives to promote access to healthy food. Local healthy food policies being pursued around the country include regional and local food hubs and healthy community resolutions and policies.

## **Healthy Community and Local Government Resolutions**

Many local governments have been pursuing healthy eating and active living resolutions and policies to promote healthy lifestyles both for government employees and on a community-wide basis. By adopting a healthy resolution or policy, a mayor, city council, or county board expresses its firm commitment to preserve, promote, and improve the health of its citizens and employees by taking active steps to seek opportunities and establish mechanisms to increase healthy eating and active living within its jurisdiction. Healthy eating and active living resolutions can advance a broad array of public health initiatives that impact the built

environment, access to healthy food, park and recreation opportunities, and employee health and wellness. These initiatives often identify specific processes or mechanisms that local governments can use to: strengthen existing policies and practices; introduce new policies; plan for sustainability; and draw attention to policy gaps and opportunities. Examples of healthy government and community resolutions include:

- Passage of “A Resolution of the City Council Declaring the City of Eagan to be a Healthy Eating and Active Living Community” in Eagan, Minnesota. This resolution focuses on seeking opportunities and mechanisms to improve the public’s health through policies and practices supporting and promoting healthy eating and active living in Eagan.<sup>85</sup>
- Enactment of an executive directive, “Healthy and Sustainable Food for San Francisco”, by San Francisco Mayor Gavin Newsom. This executive directive recognizes the importance of access to safe, nutritious, and culturally acceptable food for human health and ecological sustainability and provides a vision for ensuring that all residents of San Francisco have access to healthy and sustainable food.<sup>86</sup>
- Passage of a Wellness Resolution in Cook County, Illinois, promoting worksite wellness policies and programs for county employees.<sup>87</sup>

## Regional/Local Food Hubs

Regional and local food hubs are generally thought of as food distribution systems that act as an intermediary between local food producers and local or regional markets. Local and regional food hubs can include: local and regional grocery store chains; co-operative food markets; and institutional purchasers such as local governments, schools, and restaurants. USDA defines a regional food hub as, “[a] business or organization that actively manages the aggregation, distribution, and marketing of source-identified food products primarily from local and regional producers to strengthen their ability to satisfy wholesale, retail, and institutional demand.”<sup>88</sup>

Regional food hubs strengthen both the supply and demand side of the local food system by providing support to local and regional food suppliers and making connections with distributors, processors, wholesale buyers and consumers seeking to access these food suppliers.<sup>89</sup> Regional food hubs can “provide new market outlets for small and mid-sized local and regional producers” and often provide technical assistance to producers in “production planning, season extension, sustainable production practices, food safety, and post-harvest handling.”<sup>90</sup>

Food hubs can increase access to fresh, local food, especially in low-income “food desert” neighborhoods with limited access to high-quality fresh fruits and vegetables



and food shopping choices.<sup>91</sup> Food hubs can increase access to healthy food in communities by helping to eliminate barriers along the food supply chain between producers and buyers. Food hubs often provide services, such as: insurance, quality control, and distribution and processing services to producers. Food hubs also help producers establish relationships with wholesale buyers operating in food desert neighborhoods, including: schools, hospitals, and neighborhood stores.<sup>92</sup> Food hubs can help producers distribute and market their products beyond farmers' markets, CSAs, and farm stands. There are many models for creating food hubs, but in general they require start-up funds that can come from public financing initiatives, a non-profit donor, or existing entrepreneurial retail companies.<sup>93</sup>

Food hubs are growing throughout the country as communities seek to improve access to healthy food and promote local agriculture. Examples of regional food hubs include:

- The Local Food Hub in Charlottesville, Virginia. The Local Food Hub is a nonprofit organization working to strengthen and secure a healthy regional food supply by working with small farmers, consumers, and the community to create a sustainable local food distribution model in Charlottesville, Virginia.<sup>94</sup>
- Vermont's Intervale Food Hub markets and distributes local vegetables, fruits, meats, eggs, cheeses and specialty products. This food hub creates a link between local farmers and the local marketplace and aims to provide the greater Burlington, Vermont community with convenient access to high quality food while ensuring a fair price to farmers.<sup>95</sup>
- Detroit, Michigan's Eastern Food Market is a local food district with more than 250 independent vendors and merchants processing, wholesaling, and retailing food. Eastern Market serves as many as 40,000 people at its Saturday Market. Eastern Market focuses on mobilizing leadership and resources to make Eastern Market the center for fresh and nutritious food in southeast Michigan.<sup>96</sup>

## Summary

A community's lack of access to healthy food is driven by several factors including: movement of grocery supermarkets from lower income, urban neighborhoods to more affluent suburbs; limited food options in food stores that remain in the community; lack of affordable and accessible transportation options to access affordable and healthy food; and an overabundance of fast food restaurants. Federal, state, and local governments can be involved in efforts to reverse some of these trends and promote other options through regulations, tax incentives, removal of barriers to community-based initiatives, and incorporation of food systems into comprehensive land use planning.



Public health advocates and policymakers should also be cognizant of the potential for unintended consequences when developing and implementing policy efforts to improve access to healthy food. Low-income communities and some minority groups have a disproportionate prevalence of obesity and lack of access to resources. Accordingly, public health advocates and policy makers should be sure to involve these groups in the development and implementation of policy or legal initiatives to improve access to healthy food to better ensure that the benefits from these initiatives are shared by these communities.

In reviewing the successes in increasing access to healthy food, two factors appear to contribute to success. First, successful approaches involve and have the support of the community. Second, successful approaches consider and address the multi-faceted reasons for the lack of access to healthy food and take a broad approach to resolving the issue by incorporating multiple strategies. This can be seen in the success stories of neighborhood grocery stores, where sustained improvements were achieved when: the store owners supported the change; the local community became involved and supportive; and both were supported by local non-profits or governmental organizations.

While increasing access to healthy food may help shift dietary patterns and prevent or reduce obesity, it is surely not enough. Communities will also need to address other barriers to healthy eating, such as: food preferences; convenience; time constraints; lack of skill and facilities to prepare healthy meals at home; limited nutrition education; and widespread marketing of unhealthy food and beverages.

## Annotated List of Key Organizations Involved in Healthy Food Access

Many advocacy, research, and policy organizations support policies and actions to increase access to healthy food. Both the Institute of Medicine and the Centers for Disease Control and Prevention (“CDC”) published recommendations on community strategies to increase access to healthy food.<sup>97</sup> These recommendations include evidence-based policy actions that communities can take in schools, worksites, and community and faith-based organizations to improve food environments, keeping in mind that this requires not only increasing access to healthy food but also limiting access to unhealthy food.<sup>98</sup>

Key national organizations working on increasing access to healthy food include:

**American Cancer Society** promotes healthy lifestyles to prevent cancer through programs supporting healthy eating in communities, schools, and worksites. Resources include policy statements, fact sheets, newsletters, and toolkits. [www.cancer.org](http://www.cancer.org)

**American Heart Association** promotes healthy lifestyles to prevent heart disease and stroke through programs supporting healthy eating in communities, schools, and worksites. Resources include fact sheets, tips for individuals, policy statements, and technical assistance to communities. [www.heart.org](http://www.heart.org)

**American Planning Association** provides leadership in the development of vital communities by advocating excellence in community planning, promoting education and citizen empowerment, and providing the tools and support necessary to meet the challenges of growth and change. <http://www.planning.org/policy/guides/adopted/food.htm>

**Center for Science in the Public Interest** is a consumer advocacy organization whose twin missions are to conduct innovative research and advocacy programs in health and nutrition, and to provide consumers with current, useful information about their health and well-being. [www.cspinet.org](http://www.cspinet.org)

**Community Food Security Coalition** is a coalition of almost 300 organizations working to build communities in which all residents obtain safe, culturally appropriate and nutritious food and support farm-to-school and farm-to-college programs. Resources include newsletters, policy statements, fact sheets, guidebooks, reports, and technical assistance. [www.foodecurity.org](http://www.foodecurity.org)

**Food Research and Action Center** is a national non-profit organization that promotes public policies and public-private partnerships to address hunger and under-nutrition and their link to food insecurity and obesity. They compile data on hunger and food insecurity and release reports, fact sheets, sample nutrition curricula, and toolkits. [www.frac.org](http://www.frac.org)

**The Food Trust** is a non-profit organization that works with communities, schools, grocers, farmers, and policymakers to provide nutrition education and expand access to healthy food. [www.thefoodtrust.org](http://www.thefoodtrust.org)

**Health Care Without Harm** is an international coalition of hospitals and health care systems, medical professionals, community groups, health-affected constituencies, labor unions, environmental and environmental health organizations, and religious groups focused on implementing ecologically sound and healthy alternatives to health care practices that pollute the environment and contribute to disease. A key focus area of this organization is working with hospitals to adopt food procurement policies that provide nutritionally improved food for patients, staff, visitors, and the general public and support and create food systems that are ecologically sound, economically viable, and socially responsible. <http://www.noharm.org/>

**Healthy Eating Research** is a program of the Robert Wood Johnson Foundation that funds research on policy and systems changes to improve healthy eating primarily in communities and schools. They release research briefs and syntheses; compile reports, journal articles, and presentations funded by the program; compile datasets, surveillance systems, and measurement tools; and release funding opportunities. [www.healthyeatingresearch.org](http://www.healthyeatingresearch.org)

**Know Your Farmer, Know Your Food** is an effort by the United States Department of Agriculture to strengthen local and regional food systems. Resources include grants and loans to farmers, farmers' markets, and community groups; reports; tools; and policy guides. <http://www.usda.gov/wps/portal/usda/knowyourfarmer?navid=KNOWYOURFARMER>

**National Policy and Legal Analysis Network to Prevent Childhood Obesity** is a program of ChangeLab Solutions that provides legal and policy guidance on community and school efforts to promote healthy eating and physical activity. Resources include articles, fact sheets, legal memos, and model policies. <http://changelabsolutions.org/childhood-obesity>

**National Alliance for Nutrition and Activity** is a coalition of more than 300 organizations that advocates for federal policies and programs to promote healthy eating and physical activity with a focus on school nutrition and funding for state nutrition, physical activity, and obesity programs. They release fact sheets, model school wellness policies, and policy backgrounders. [www.cspinet.org/nutritionpolicy/nana.html](http://www.cspinet.org/nutritionpolicy/nana.html)

**National Association of State Boards of Education** supports healthy school environments through the Center for Safe and Healthy Schools. Resources include a state school healthy policy database, technical assistance to schools, issue briefs, and webinars. [www.nasbe.org](http://www.nasbe.org)

**National Farm to School Network** supports the development of farm-to-school programs around the country through policy development; training and technical assistance; information development and dissemination; networking; media and marketing; and research and evaluation. Resources include fact sheets, toolkits, case studies, evaluation tools, newsletters, funding opportunities and upcoming events. The network also includes organizations involved at the national, regional, and local level, and works with existing policies and legislative efforts to expand farm-to-school programming at the national and local level. [www.farmtoschool.org](http://www.farmtoschool.org)

**PolicyLink** is a national research and action center that seeks to advance health equity by promoting community conditions, including access to healthy food, that lead to positive health outcomes. Resources include reports, fact sheets, articles, and technical assistance. [www.policylink.org](http://www.policylink.org)

**Public Health Law Center** at William Mitchell College of Law is a national non-profit organization that provides guidance on using the law to advance public health in the areas of healthy eating, physical activity, and tobacco control. Resources include fact sheets, legal memos, model policies, technical assistance, and webinars. [www.publichealthlawcenter.org](http://www.publichealthlawcenter.org)

**Sargent Shriver National Center on Poverty Law** provides national leadership in advancing laws and policies that secure justice to improve the lives and opportunities of people living in poverty, including how the local food movement impacts low-income Americans. More information about resources available through the Shriver Center is available at <http://www.povertylaw.org/>.

**School Food Focus** is a national collaborative that supports large school districts in their efforts to provide healthful, regionally sourced, and sustainably produced school meals. Resources include case studies, policy briefings, newsletters, resource guides, fact sheets, and webinars. [www.schoolfoodfocus.org](http://www.schoolfoodfocus.org)

**School Nutrition Association** is a professional organization of school nutrition professionals that supports healthy and safe food in schools. Resources include reports, nutrition curricula, toolkits, magazine articles, journal articles, and presentations. [www.schoolnutrition.org](http://www.schoolnutrition.org)

**Yale Rudd Center for Food Policy & Obesity** seeks to improve the world's diet, prevent obesity, and reduce weight stigma by establishing creative connections between science and public policy, developing targeted research, encouraging frank dialogue among key constituents, and expressing a dedicated commitment to real change. Resources include reports, fact sheets, articles, databases and presentations. [www.yaleruddcenter.org](http://www.yaleruddcenter.org)

## Endnotes

- <sup>1</sup> JOHN HOFFMAN & JUDITH A. SALERNO, *THE WEIGHT OF THE NATION: TO WIN WE HAVE TO LOSE 2* (2012).
- <sup>2</sup> JEFFREY LEVI ET AL., *F AS IN FAT: HOW OBESITY THREATENS AMERICA'S FUTURE 4* (2010) available at <http://www.rwjf.org/files/research/20100629fasinfatmainreport.pdf>.
- <sup>3</sup> JEFFREY LEVI ET AL., *F AS IN FAT: HOW OBESITY THREATENS AMERICA'S FUTURE 101,102* (2010) available at <http://www.rwjf.org/files/research/20100629fasinfatmainreport.pdf>; Vasanti S. Malik et al., *Intake of Sugar-Sweetened Beverages and Weight Gain: A Systematic Review*, 84 AM. CLINICAL NUTRITION 274, 285 (2006) available at <http://www.ajcn.org/content/84/2/274.full.pdf+html>; Jonathon D. Klein & William Dietz, *Childhood Obesity: The New Tobacco*, 29 HEALTH AFF. 388, 388 (2010); USDA & U.S. DEP'T OF HEALTH AND HUMAN SERV., *DIETARY GUIDELINES FOR AMERICANS 2010* at 9 (2010) available at <http://www.cnpp.usda.gov/dietaryguidelines.htm>.
- <sup>4</sup> Lawrence H. Kushi, *American Cancer Society Guidelines on Nutrition and Physical Activity for Cancer Prevention: Reducing the Risk of Cancer With Healthy Food Choices and Physical Activity*, 62 CAL. CANCER J. CLINICIANS 30, 30 (2012).
- <sup>5</sup> Jonathon D. Klein & William Dietz, *Childhood Obesity: The New Tobacco*, 29 HEALTH AFF. 388, 388 (2010).
- <sup>6</sup> INST. OF MED. OF THE NAT'L ACAD., *LOCAL GOVERNMENT ACTIONS TO PREVENT CHILDHOOD OBESITY IX* (Lynn Parker et al. eds., 2009).
- <sup>7</sup> JEFFREY LEVI ET AL., *F AS IN FAT: HOW OBESITY THREATENS AMERICA'S FUTURE 17* (2010) available at <http://www.rwjf.org/files/research/20100629fasinfatmainreport.pdf>.
- <sup>8</sup> *Id.* at 20, 21.
- <sup>9</sup> *Id.*
- <sup>10</sup> INST. OF MED. OF THE NAT'L ACAD., *ACCELERATING PROGRESS IN OBESITY PREVENTION: SOLVING THE WEIGHT OF THE NATION 1* (Dan Glickman et al. eds., 2012).
- <sup>11</sup> INST. OF MED. OF THE NAT'L ACAD., *BRIDGING THE EVIDENCE GAP IN OBESITY PREVENTION: A FRAMEWORK TO INFORMED DECISION MAKING 35* (Shiriki K. Kumanyika et al. eds., 2010).
- <sup>12</sup> Youfa Wang et al., *Will All Americans Become Overweight or Obese? Estimating the Progression and Cost of the U.S. Obesity Epidemic*, 16 OBESITY 2323, 2329 (2008) available at <http://www.nature.com/oby/journal/v16/n10/pdf/oby2008351a.pdf>; INST. OF MED. OF THE NAT'L ACAD., *BRIDGING THE EVIDENCE GAP IN OBESITY PREVENTION: A FRAMEWORK TO INFORMED DECISION MAKING 35-54* (Shiriki K. Kumanyika et al. eds., 2010).
- <sup>13</sup> INST. OF MED. OF THE NAT'L ACAD., *HUNGER & OBESITY: UNDERSTANDING A FOOD INSECURITY PARADIGM 109* (Lisa M. Troy et al., 2011).
- <sup>14</sup> INST. OF MED. OF THE NAT'L ACAD., *ACCELERATING PROGRESS IN OBESITY PREVENTION: SOLVING THE WEIGHT OF THE NATION 11* (Glickman et al. eds., 2012).
- <sup>15</sup> USDA & U.S. DEP'T OF HEALTH AND HUMAN SERV., *DIETARY GUIDELINES FOR AMERICANS 2010* at 58 (2010) available at <http://www.cnpp.usda.gov/dietaryguidelines.htm>.
- <sup>16</sup> CLEVELAND, OHIO, *ZONING CODE Ch. 241.42* (2007) available at [http://www.amlegal.com/nxt/gateway.dll/Ohio/cleveland\\_oh/cityofclevelandohicodeofordinances?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:cleveland\\_oh](http://www.amlegal.com/nxt/gateway.dll/Ohio/cleveland_oh/cityofclevelandohicodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:cleveland_oh).
- <sup>17</sup> Health Care Without Harm, *Healthy Food Systems*, <http://www.healthyfoodinhealthcare.org/healthybeverage.php> (last visited June 23, 2012).
- <sup>18</sup> INST. OF MED. OF THE NAT'L ACAD., *ACCELERATING PROGRESS IN OBESITY PREVENTION: SOLVING THE WEIGHT OF THE NATION 202-205* (Glickman et al. eds., 2012).

- 19 JESSICA E. TODD ET AL., THE IMPACT OF FOOD AWAY FROM HOME ON ADULT DIET QUALITY 1 (USDA Economic Research Service, 2010) available at <http://uhs.berkeley.edu/Facstaff/pdf/healthmatters/FoodAwayFromHome.pdf>; Lisa Mancino et al., *Separating What We Eat From Where: Measuring the Effect of Food Away From Home on Diet Quality* 34 FOOD POLICY 557, 561-562 (2009) available at <http://www.sciencedirect.com/science/article/pii/S0306919209001109>; Kiyah J. Duffey et al., *Regular Consumption From Fast Food Establishments Relative to Other Restaurants is Differently Associated with Metabolic Outcomes in Young Adults*, 139 J. NUTRITION 2113, 2113 (2009) available at <http://jn.nutrition.org/content/139/11/2113.full>; Mark A. Pereira et al., *Fast-food Habits, Weight Gain, and Insulin Resistance (the Cardia study): 15-year Prospective Analysis*, 365 LANCET 36, 36 (2005) available at <http://www.sciencedirect.com/science/article/pii/S0140673604176630>; Rachel Rosenheck, *Fast Food Consumption and Increased Caloric Intake: A Systematic Review of a Trajectory Towards Weight Gain and Obesity Risk*, 9 OBESITY REV. 535, 535 (2008) available at <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-789X.2008.00477.x/pdf>; Kerri N. Boutelle et al., *Fast Food for Family Meals: Relationships with Parent and Adolescent Food Intake, Home Food Availability and Weight Status*, 10 PUB. HEALTH NUTRITION 16, 17 (2007); Nicole Larson et al., *Young adults and eating away from home: Associations with dietary intake patterns and weight status differ by choice of restaurant*, 111 J. AM. DIET ASS'N 1696, 1696 (2011).
- 20 Kimberly Morland et al., *Supermarkets, Other Food Stores, and Obesity: the Atherosclerosis Risk in Communities Study* 30 AM. J. PREVENTIVE MED. 333, 336-338 (2006); Janne Boone-Heinonen et al., *Fast Food Restaurants and Food Stores*, 171 ARCH. INTERNAL MED. 1162, 1162 (2011).
- 21 SARAH TREUHAFT AND ALLISON KARPYN, THE GROCERY GAP: WHO HAS ACCESS TO HEALTHY FOOD AND WHY IT MATTERS 13 (PolicyLink, 2010) available at <http://www.policylink.org/atf/cf/%7B97C6D565-BB43-406D-A6D5-ECA3BBF35AF0%7D/FINALGroceryGap.pdf>; Kimberly Morland et al., *Supermarkets, Other Food Stores, and Obesity: the Atherosclerosis Risk in Communities Study*, 30 AM. J. PREVENTIVE MED. 333, 336-338 (2006); Russ P. Lopez, *Neighborhood Risk Factors for Obesity*, 15 OBESITY 2111, 2116-2118 (2007) available at <http://www.nature.com/oby/journal/v15/n8/full/oby2007251a.html>; Lisa M. Powell et al., *Associations Between Access to Food Stores and Adolescent Body Mass Index*, 33 AM. J. PREVENTIVE MED. S301, S301, S306 (2007) available at <http://www.ajpmonline.org/article/S0749-3797%2807%2900433-3/abstract>; Kimberly B. Morland & Kelly R. Evenson, *Obesity prevalence and the local food environment*, 15 HEALTH PLACE 491, 493 (2009) available at <http://www.sciencedirect.com/science/article/pii/S1353829208000981>; Donald Rose et al., *The Importance of a Multi-dimensional Approach for Studying the Links Between Food Access and Consumption*, 140 J. NUTRITION 1170, 1173 (2010) available at <http://jn.nutrition.org/content/early/2010/04/21/jn.109.113159>.
- 22 BRENNAN DAVIS & CHRISTOPHER CARPENTER, PROXIMITY OF FAST-FOOD RESTAURANTS TO SCHOOLS AND ADOLESCENT OBESITY, 99 AM. J. PUB. HEALTH 505, 509-510 (2009).
- 23 Philip H. Howard et al., *Proximity of food retailers to schools and rates of overweight ninth grade students: An ecological study in California*, 11 BMC PUB. HEALTH 68, 73-74 (2011); Kelley E. Borradaile et al., *Snacking Children: The Role of Urban Corner Stores*, 124 PEDIATRICS 1293, 1297 (2012).
- 24 NICOLE LARSON & MARY STORY, SCHOOL FOOD SOLD OUTSIDE OF MEALS (COMPETITIVE FOOD) (Healthy Eating Research Program, University of Minnesota and Robert Wood Johnson Foundation, 2007) available at [http://healthy-eatingresearch.org/images/stories/her\\_research\\_briefs/hercompetfoodresearchbrief.pdf](http://healthy-eatingresearch.org/images/stories/her_research_briefs/hercompetfoodresearchbrief.pdf).
- 25 Ramona Robinson-O'Brien, *Impact of Garden-Based Youth Nutrition Intervention Programs: A Review*, 109 J. AM. DIET ASS'N 273, 273-274 (2009) available at <http://www.sciencedirect.com/science/article/pii/S0002822308020440>; Katherine Alaimo et al., *Fruit and Vegetable Intake Among Urban Community Gardeners*, 40 J. NUTRITION EDUC. BEHAV. 94, 97-100 (2008) available at <http://www.sciencedirect.com/science/article/pii/S1499404606008542>; Marilyn S. Nanney et al., *Frequency of Eating Homegrown Produce is Associated with Higher Intake Among Parents and Their Preschool-Aged Children in Rural Missouri*, 107 J. AM. DIET ASS'N 577, 582 (2007) available at <http://www.sciencedirect.com/science/article/pii/S000282230700020X>; Anupama Joshi et al., *Do farm-to-school programs make a difference? Findings and future research needs*, 3 J. HUNGER & ENVTL. NUTRITION 229, 229-246 (2008); Cheryl Brown & Stacey Miller, *The Impacts of Local Markets: A Review of Research on Farmers Markets and Community Supported Agriculture (CSA)*, 90 AM. J. AGRIC. ECON. 1296, 1296-1302 (2008).
- 26 Lacey Arneson McCormack et al, *Review of the Nutritional Implications of Farmers' Markets and Community Gardens: A call for Evaluation and Research Efforts*, 110 J. AM. DIET ASS'N 399, 408 (2010) available at <http://www.sciencedirect.com/science/article/pii/S0002822309019579>.
- 27 Ruopeng An & Roland Sturm, *School and Residential Neighborhood Food Environment and Diet Among California Youth*, 42 AM. J. PREVENTIVE MED. 129, 131-134 (2012); Janne Boone-Heinonen et al., *Fast Food Restaurants and Food Stores*, 171 ARCH. INTERN. MED. 1162, 1162 (2011).
- 28 USDA, ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES, REPORT TO CONGRESS 56 (2009) available at <http://www.ers.usda.gov/Publications/AP/AP036/AP036.pdf>.

- <sup>29</sup> REBECCA FLOURNAY, HEALTHY FOOD, HEALTHY COMMUNITIES: PROMISING STRATEGIES TO IMPROVE ACCESS TO FRESH, HEALTHY FOOD AND TRANSFORM COMMUNITIES 3 (PolicyLink 2011) *available at* [http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/HFHC\\_FULL\\_FINAL\\_20120110.PDF](http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/HFHC_FULL_FINAL_20120110.PDF).
- <sup>30</sup> Cheryl Brown & Stacey Miller, *The Impacts of Local Markets: A Review of Research on Farmers Markets and Community Supported Agriculture (CSA)*, 90 AM. J. AGRIC. ECON. 1298, 1298, 1300 (2008).
- <sup>31</sup> Sin-Ae Park et al., *Can Older Gardeners Meet the Physical Activity Recommendation Through Gardening?* 18 HORTTECHNOLOGY 639, 641-643 (2008) *available at* <http://horttech.ashspublications.org/content/18/4/639.full.pdf+html>.
- <sup>32</sup> USDA, Your Food Environment Atlas, <http://maps.ers.usda.gov/FoodAtlas/> (last visited June 23, 2012).
- <sup>33</sup> USDA, Food Security in the United States: Definitions of Hunger and Food Security, <http://www.ers.usda.gov/Briefing/Foodsecurity/labels.htm> (last visited May 21, 2012).
- <sup>34</sup> ALICIA COLEMAN-JENSEN ET AL., HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2010 (2011) *available at* <http://www.ers.usda.gov/Publications/err125/>.
- <sup>35</sup> Charitha Gowda et al., *The Association Between Food Insecurity and Inflammation in the US Adult Population*, AM. J. PUB. HEALTH (2012) (published online ahead of print), *available at* <http://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2011.300551>; Hilary K. Seligman et al., *Food Insecurity is Associated with Diabetes Mellitus: Results from the National Health Examination and Nutrition Examination Survey (NHANES) 1999-2002*, 22 J. GEN. INTERNAL MED. 1018 (2007) *available at* [http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2583797/pdf/11606\\_2007\\_Article\\_192.pdf](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2583797/pdf/11606_2007_Article_192.pdf); Hilary K. Seligman et al., *Food Insecurity is Associated with Chronic Disease Among Low-Income NHANES Participants*, 140 J. NUTRITION 304 (2011) *available at* <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2806885/pdf/nut1400304.pdf>; Janice E. Stuff et al., *Household Food Insecurity is Associated with Adult Health Status*, 134 J. NUTRITION 2330 (2004) *available at* <http://jn.nutrition.org/content/134/9/2330.full.pdf>; Christine M. Olson, *Nutrition and Health Outcomes Associated with Food Insecurity and Hunger*, 129 J. NUTRITION 521S (1999) *available at* <http://jn.nutrition.org/content/129/2/521.full.pdf>; Parke E. Wilde & Jerusha N. Peterman, *Individual Weight Change Is Associated with Household Food Security Status*, 136 J. NUTRITION 1395 (2006) *available at* <http://jn.nutrition.org/content/136/5/1395.full.pdf>.
- <sup>36</sup> H.R. 6124, 110th Cong. § 7527 (2008).
- <sup>37</sup> USDA, ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES, REPORT TO CONGRESS 1-6 (2009) *available at* <http://www.ers.usda.gov/Publications/AP/AP036/AP036.pdf>.
- <sup>38</sup> *Id.* at iii.
- <sup>39</sup> Lisa M. Powell et al., *Food Store Availability and Neighborhood Characteristics in the United States*, 44 PREVENTIVE MED. 189, 193-194 (2007) *available at* <http://www.sciencedirect.com/science/article/pii/S0091743506003343>; Shannon Zenk et al., *Fruit and Vegetable Access Differs by Community Racial Composition and Socioeconomic Position in Detroit Michigan*, 16 *Ethnicity & Disease* 275, 278-279 (2006); Renee E. Walker et al., *Disparities and Access to Healthy Food in the United States, A Review of Food Deserts Literature*, 16 HEALTH & PLACE 876, 876-884 (2010) *available at* <http://www.sciencedirect.com/science/article/pii/S1353829210000584>.
- <sup>40</sup> USDA, ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES, REPORT TO CONGRESS iv (2009) *available at* <http://www.ers.usda.gov/Publications/AP/AP036/AP036.pdf>.
- <sup>41</sup> DONALD ROSE ET AL., DESERTS IN NEW ORLEANS? ILLUSTRATIONS OF URBAN FOOD ACCESS AND IMPLICATIONS FOR POLICY (Nat'l Poverty Center, Working Paper, 2009) *available at* <http://www.npc.umich.edu/news/events/food-access/index.php>; USDA, ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES, REPORT TO CONGRESS (2009) *available at* <http://www.ers.usda.gov/Publications/AP/AP036/AP036.pdf>.
- <sup>42</sup> USDA, ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES, REPORT TO CONGRESS (2009) *available at* <http://www.ers.usda.gov/Publications/AP/AP036/AP036.pdf>.
- <sup>43</sup> Jessica Wegener et al., *Concepts and Measures of "Alternative" Retail Food Outlets: Considerations for Facilitating Access to Healthy, Local Food*, 5 J. HUNGER & ENVTL. NUTRITION 158, 159, 169 (2010) *available at* <http://www.tandfonline.com/doi/pdf/10.1080/19320248.2010.48702>.
- <sup>44</sup> *Id.*
- <sup>45</sup> USDA, Farmers' Markets and Local Food Marketing, <http://www.ams.usda.gov/AMSV1.0/FARMERSMARKETS> (last visited June 20, 2012).

- <sup>46</sup> USDA, FARMERS' MARKETS AND LOCAL FOOD MARKETING, at 2, <http://www.ams.usda.gov/AMSV1.0/FARMER-SMARKETS> (last visited June 20, 2012); ANDREA CARLSON & ELIZABETH FRAZAO, ARE HEALTHY FOOD REALLY MORE EXPENSIVE? IT DEPENDS ON HOW YOU MEASURE THE PRICE iii (2012) *available at* <http://www.ers.usda.gov/publications/eib96/>.
- <sup>47</sup> USDA, FARMERS' MARKETS AND LOCAL FOOD MARKETING, at 30, <http://www.ams.usda.gov/AMSV1.0/FARMER-SMARKETS> (last visited June 20, 2012); ANDREA CARLSON & ELIZABETH FRAZAO, ARE HEALTHY FOOD REALLY MORE EXPENSIVE? IT DEPENDS ON HOW YOU MEASURE THE PRICE 2 (2012) *available at* <http://www.ers.usda.gov/publications/eib96/>.
- <sup>48</sup> ANDREA CARLSON & ELIZABETH FRAZAO, ARE HEALTHY FOOD REALLY MORE EXPENSIVE? IT DEPENDS ON HOW YOU MEASURE THE PRICE 30 (2012) *available at* <http://www.ers.usda.gov/publications/eib96/>.
- <sup>49</sup> REBECCA FLOURNAY, HEALTHY FOOD, HEALTHY COMMUNITIES: PROMISING STRATEGIES TO IMPROVE ACCESS TO FRESH, HEALTHY FOOD AND TRANSFORM COMMUNITIES 6,7,44,47 (PolicyLink 2011) *available at* [http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/HFHC\\_FULL\\_FINAL\\_20120110.PDF](http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/HFHC_FULL_FINAL_20120110.PDF); Kelley E. Borradaile et al., *Snacking Children: The Role of Urban Corner Stores*, 124 PEDIATRICS 1293, 1297 (2012).
- <sup>50</sup> REBECCA FLOURNAY, HEALTHY FOOD, HEALTHY COMMUNITIES: PROMISING STRATEGIES TO IMPROVE ACCESS TO FRESH, HEALTHY FOOD AND TRANSFORM COMMUNITIES 5 (PolicyLink 2011) *available at* [http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/HFHC\\_FULL\\_FINAL\\_20120110.PDF](http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/HFHC_FULL_FINAL_20120110.PDF).
- <sup>51</sup> USDA, ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES, REPORT TO CONGRESS 1, 28-29, 35 (2009) *available at* <http://www.ers.usda.gov/Publications/AP/AP036/AP036.pdf>.
- <sup>52</sup> U.S. DEPT. OF LABOR, ECONOMIC NEWS RELEASE, TABLE A-1, EMPLOYMENT STATUS OF THE CIVILIAN POPULATION BY SEX AND AGE (2009) *available at* <http://www.bls.gov/news.release/empsit.t01.htm>.
- <sup>53</sup> U.S. DEPT. OF LABOR, ECONOMIC NEWS RELEASE, TABLE 4, EMPLOYED PERSONS WORKING AND TIME SPENT WORKING ON DAYS BY FULL- AND PART-TIME STATUS AND SEX, JOBHOLDING STATUS, EDUCATIONAL ATTAINMENT, AND DAY OF WEEK, 2010 ANNUAL AVERAGES (2011) *available at* <http://www.bls.gov/news.release/atus.t04.htm>.
- <sup>54</sup> CENTER FOR DISEASE CONTROL AND PREVENTION, RECOMMENDED COMMUNITY STRATEGIES AND MEASUREMENTS TO PREVENT OBESITY IN THE UNITED STATES: IMPLEMENTATION AND MEASUREMENT GUIDE 7-18 (July 2009), *available at* [http://www.cdc.gov/obesity/downloads/community\\_strategies\\_guide.pdf](http://www.cdc.gov/obesity/downloads/community_strategies_guide.pdf).
- <sup>55</sup> INST. OF MED. OF THE NAT'L ACAD., PREVENTING CHILDHOOD OBESITY: HEALTH IN THE BALANCE 237 (Jeffrey Koplan et al. eds., 2005).
- <sup>56</sup> Mary Story et al., *Schools and Obesity Prevention: Creating School Environments and Policies to Promote Healthy Eating and Physical Activity*, 88 MILBANK Q. 71, 72 (2009).
- <sup>57</sup> 77 F.R. 4088 (Jan. 26, 2012).
- <sup>58</sup> Healthy, Hunger-Free Kids Act of 2010, Pub. L. No. 111-296, § 223 (2010) *available at* <http://www.gpo.gov/fdsys/pkg/BILLS-111s3307enr/pdf/BILLS-111s3307enr.pdf>. (The Healthy, Hunger-Free Kids Act requires USDA to establish minimum nutrition standards for competitive food in schools. USDA is expected to release proposed standards for public review and comment in 2012.)
- <sup>59</sup> INST. OF MED. OF THE NAT'L ACAD., NUTRITION STANDARDS FOR FOOD IN SCHOOLS: LEADING THE WAY TOWARD HEALTHIER YOUTH 1 (Virginia A. Stallings et al. eds., 2007); NICOLE LARSON & MARY STORY, SCHOOL FOOD SOLD OUTSIDE OF MEALS (COMPETITIVE FOOD) 1 (Healthy Eating Research Program, University of Minnesota and Robert Wood Johnson Foundation, 2007) *available at* [http://healthyeatingresearch.org/images/stories/her\\_research\\_briefs/hercompetfoodresearchbrief.pdf](http://healthyeatingresearch.org/images/stories/her_research_briefs/hercompetfoodresearchbrief.pdf).
- <sup>60</sup> INST. FOR AGRIC. AND TRADE POLICY, FARM TO SCHOOL IN MINNESOTA: FOURTH ANNUAL SURVEY OF SCHOOL FOOD SERVICE LEADERS 3 (2012) *available at* <http://www.iatp.org/documents/farm-to-school-in-minnesota>.
- <sup>61</sup> DAYNA BURTNES, HEALTHY FOOD FOR ALL: HEALTHY CORNER STORE STRATEGIES FROM ACROSS THE UNITED STATES 8-9 (Inst. for Agric. & Trade Policy 2009) *available at* <http://www.chicagofoodpolicy.org/Healthy%20Corner%20Store%20Strategies%20from%20Across%20the%20US.pdf>.
- <sup>62</sup> Alliance for a Healthier Generation, Save Money (2012), <http://www.healthiergeneration.org/schools.aspx?id=5649> (last visited June 25, 2012).
- <sup>63</sup> Minnesota School Food Buying Group, <http://www.anoka.k12.mn.us/education/components/scrapbook/default.php?sectiondetailid=270782&linkid=nav-menu-container-4-258469> (last visited May, 2012).

- <sup>64</sup> THE FOOD TRUST, HEALTHY CORNER STORES ISSUE BRIEF (2012) *available at* [http://www.thefoodtrust.org/catalog/download.php?product\\_id=191](http://www.thefoodtrust.org/catalog/download.php?product_id=191).
- <sup>65</sup> 76 F.R. 22603 (2011).
- <sup>66</sup> H.R. 6124, 110th Cong. § 4302 (2008) amended by 42 USC 1758(j). See also, CYNTHIA LONG, APPLYING GEOGRAPHIC PREFERENCES IN PROCUREMENTS FOR THE CHILD NUTRITION PROGRAMS – UPDATES (2009) *available at* [http://www.fns.usda.gov/cnd/governance/Policy-Memos/2010/SP\\_01-2010\\_os.pdf](http://www.fns.usda.gov/cnd/governance/Policy-Memos/2010/SP_01-2010_os.pdf).
- <sup>67</sup> USDA, Farm to School (2012), <http://www.fns.usda.gov/cnd/f2s/> (last visited June 25, 2012).
- <sup>68</sup> N.Y., N.Y., HEALTH CODE § 81.08 (2006); PHILA., PA., CODE § 6-307 (2007).
- <sup>69</sup> MAYOR GAVIN NEWSOM, EXECUTIVE DIRECTIVE 09-03: HEALTHY AND SUSTAINABLE FOOD FOR SAN FRANCISCO (2009) *available at* <http://www.sfgov3.org/Modules/ShowDocument.aspx?documentid=74>; N.Y., N.Y., ADMINISTRATIVE CODE OF NEW YORK CITY § 6-130 (2011); GOVERNOR PATRICK, EXECUTIVE ORDER 509: ESTABLISHING NUTRITION STANDARDS FOR FOOD PURCHASED AND SERVED BY STATE AGENCIES (2009) *available at* <http://www.mass.gov/eohhs/gov/laws-regs/dph/regs-m-p/nutrition-standards-for-state-agencies.html>.
- <sup>70</sup> MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH, REGULATIONS FOR NUTRITION STANDARDS FOR COMPETITIVE FOOD IN SCHOOLS (2011) *available at* [http://www.mahealthcouncil.org/2011-02-09\\_DPH\\_Nutrition\\_Standards.pdf](http://www.mahealthcouncil.org/2011-02-09_DPH_Nutrition_Standards.pdf); LOS ANGELES UNIFIED SCHOOL DISTRICT, GUIDELINES FOR SALE OF FOOD/BEVERAGES ON CAMPUS BY STAFF, STUDENTS, AND PARENTS- IMPLEMENTING THE HEALTHY BEVERAGE AND OBESITY PREVENTION MOTIONS AND APPLICABLE FEDERAL, STATE, AND LOCAL LAWS (2005) *available at* [http://www.lausd.net/lausd/offices/spec\\_ed/\\_dots/School\\_Based\\_Enterprise/Guidelines\\_fo\\_Sale\\_of\\_food\\_Beverages\\_on\\_Campus.pdf](http://www.lausd.net/lausd/offices/spec_ed/_dots/School_Based_Enterprise/Guidelines_fo_Sale_of_food_Beverages_on_Campus.pdf).
- <sup>71</sup> CHRIS MURPHY, CARNEY HOSPITAL TO BAN THE SALE OF SUGAR SWEETENED BEVERAGES (2011) *available at* <http://www.reuters.com/article/2011/04/07/idUS209859+07-Apr-2011+BW20110407>; HEALTH CARE WITHOUT HARM, HOSPITAL BANS SUGAR-SWEETENED SODA AND SPORTS DRINKS TO IMPROVE PUBLIC HEALTH, [http://www.noharm.org/us\\_canada/news\\_hcwh/2010/apr/hcwh2010-04-12.php](http://www.noharm.org/us_canada/news_hcwh/2010/apr/hcwh2010-04-12.php) (last visited May, 2012).
- <sup>72</sup> L.A., CAL., LOS ANGELES ORDINANCE 180103 (2008) *available at* [http://cityplanning.lacity.org/Code\\_Studies/Misc/FastFoodInterim.pdf](http://cityplanning.lacity.org/Code_Studies/Misc/FastFoodInterim.pdf).
- <sup>73</sup> Zoning and Planning, 8 McQUILLIN MUN. CORP. §25:35 (3rd ed. 2012).
- <sup>74</sup> AMERICAN PLANNING ASSOCIATION, POLICY GUIDE ON COMMUNITY AND REGIONAL FOOD PLANNING 1 (2007) *available at* <http://www.planning.org/policy/guides/adopted/food.htm>
- <sup>75</sup> MADISON, Wis., CITY OF MADISON COMPREHENSIVE PLAN Ch 6 at 14 (2006).
- <sup>76</sup> CONCORD, MASS., TOWN OF CONCORD ZONING BYLAW, §4.7.1.
- <sup>77</sup> ARDEN HILLS, MINN., CODE §1325.04 (“No drive-in business or fast food restaurant shall be located on a site that is within four hundred (400) feet of a public, private or parochial school, a church, a public recreation area, or any residentially zoned property.”).
- <sup>78</sup> CLEVELAND, OHIO, ZONING CODE Ch. 336 (2007) *available at* [http://www.mayorsinnovation.org/pdf/Cleveland\\_CG\\_zoning\\_ord.pdf](http://www.mayorsinnovation.org/pdf/Cleveland_CG_zoning_ord.pdf).
- <sup>79</sup> For example, see MINN. CONST. ART. XIII, §7; MINN. STAT. §28A.15, Subds. 1-2; MINN. R. 4626.0130.
- <sup>80</sup> MEGHANN MYERS, USDA GRANT WILL INCREASE ACCESS TO FARMERS MARKETS FOR FOOD STAMP RECIPIENTS (2012), <http://medilldc.net/2012/05/usda-grant-will-increase-access-to-farmers-markets-for-food-stamp-recipients/> (last visited June 25, 2012).
- <sup>81</sup> MINNEAPOLIS, MINN., ORDINANCES Ch. 203.20 (2008).
- <sup>82</sup> Miriam Valverde, *Federal Grant to Help Acquire EBT Payment Equipment for Florida’s Farmers’ Markets*, BRADENTON HERALD, May 11, 2012, *available at* <http://www.bradenton.com/2012/05/11/4036124/federal-grant-to-help-acquire.html>.
- <sup>83</sup> Paul A. Diller & Samantha Graff, *Regulating Food Retail for Obesity Prevention: How Far Can Cities Go?*, 39 J. LAW, MED. & ETHICS 89, 91(2011) *available at* <http://www.aslme.org/media/downloadable/files/links/2/0/20.Diller.pdf>.
- <sup>84</sup> NEIGHBORHOOD FARM INITIATIVE, COMMUNITY GARDEN CONSENSUS: A REPORT ON THE STATE OF COMMUNITY GARDENING IN D.C. 10 (2010) *available at* <http://fieldtoforknetwork.org/wp-content/uploads/2011/02/DC-Garden-Guide-FINAL-with-cover.pdf>.

- <sup>85</sup> EAGAN, MINN., A RESOLUTION OF THE CITY COUNCIL DECLARING THE CITY OF EAGAN TO BE A HEALTHY EATING AND ACTIVE LIVING COMMUNITY (2012) *available at* <http://eagan.patch.com/articles/eagan-council-passes-resolution-to-healthy-living-in-community#pdf-9433463>.
- <sup>86</sup> MAYOR GAVIN NEWSOM, EXECUTIVE DIRECTIVE 09-03: HEALTHY AND SUSTAINABLE FOOD FOR SAN FRANCISCO (2009) *available at* <http://www.sfgov3.org/Modules/ShowDocument.aspx?documentid=74>. See also, SAN FRANCISCO GOVERNMENT, SAN FRANCISCO HEALTHY AND SUSTAINABLE FOOD POLICY, *available at* <http://www.sfgov3.org/index.aspx?page=754>.
- <sup>87</sup> Hal Dardrick, *Cook County Unveils Employee Wellness Program*, CHICAGO TRIBUNE, Apr. 2, 2012, *available at* [http://articles.chicagotribune.com/2012-04-02/news/chi-cook-county-unveils-employee-wellness-program-20120402\\_1\\_preckwinkle-wellness-program-health-fairs](http://articles.chicagotribune.com/2012-04-02/news/chi-cook-county-unveils-employee-wellness-program-20120402_1_preckwinkle-wellness-program-health-fairs).
- <sup>88</sup> USDA, REGIONAL FOOD HUB RESOURCE GUIDE, AGRICULTURAL MARKETING SERVICE 4 (2012) *available at* <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5097957>.
- <sup>89</sup> *Id.*
- <sup>90</sup> *Id.* at 6.
- <sup>91</sup> *Id.* at 19.
- <sup>92</sup> *Id.* at 19.
- <sup>93</sup> ADRIAN MORLEY ET AL., CARD FOOD HUBS: THE “MISSING MIDDLE” OF THE LOCAL FOOD INFRASTRUCTURE? (2008) *available at* [http://www.brass.cf.ac.uk/uploads/Food\\_HubKM0908.pdf](http://www.brass.cf.ac.uk/uploads/Food_HubKM0908.pdf).
- <sup>94</sup> Local Food Hub, <http://localfoodhub.org/> (last visited June 23, 2012).
- <sup>95</sup> Intervale Food Hub, <http://www.intervalefoodhub.com/> (last visited June 23, 2012).
- <sup>96</sup> Eastern Market Detroit, <http://www.detroiteasternmarket.com/> (last visited June 23, 2012).
- <sup>97</sup> DANA KEENER ET AL., RECOMMENDED COMMUNITY STRATEGIES AND MEASUREMENTS TO PREVENT OBESITY IN THE UNITED STATES: IMPLEMENTATION AND MEASUREMENT GUIDE (U.S. Dep’t of Health & Human Serv. & Ctr. For Disease Control & Prevention, 2009) *available at* [http://www.cdc.gov/obesity/downloads/community\\_strategies\\_guide.pdf](http://www.cdc.gov/obesity/downloads/community_strategies_guide.pdf); INST. OF MED. OF THE NAT’L ACAD., PREVENTING CHILDHOOD OBESITY: HEALTH IN THE BALANCE (Jeffrey Koplan et al. eds., 2005).
- <sup>98</sup> INST. OF MED. OF THE NAT’L ACAD., ACCELERATING PROGRESS IN OBESITY PREVENTION: SOLVING THE WEIGHT OF THE NATION 11 (Glickman et al. eds., 2012).





Public Health Law Center  
875 Summit Avenue  
St. Paul, Minnesota 55105-3076  
651.290.7506 · Fax: 651.290.7515  
[www.publichealthlawcenter.org](http://www.publichealthlawcenter.org)