

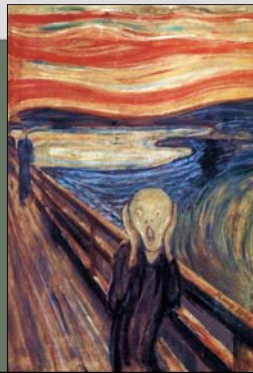
Farmers' Markets and Mobile Vending

Amy S. Ackerman & Stephanie A. Stevens
February 23, 2010

Farmers' Markets and Mobile Vending



Law 101



Regulation of Farmers' Markets and Mobile Vending

- State Retail Food Law
- Local Regulations
 - Land Use and Zoning Regulations
 - "Police power" measures



State Law



State Law begins with the Model Food Code



FDA Model Food Code

- **Intent**
- The purpose of this Code is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.
- **Scope**
- This Code establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, employee restriction, and permit suspension.

FDA Model Food Code

- **Food Establishment.**
- (1) "Food establishment" means an operation that:
 - (a) stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and
 - (b) relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
- (2) "Food establishment" includes:
 - (a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and
 - (b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises; and regardless of whether there is a charge for the food.

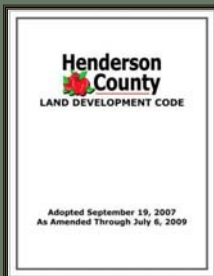
Each state adopts own version of model code



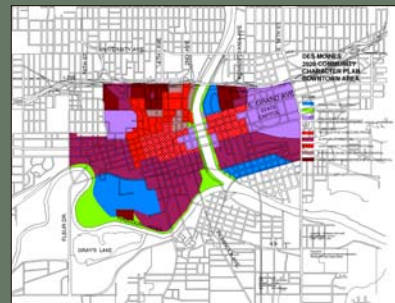
Food Code Implementation

- State law sets definitions, standards
- Implementation and enforcement often at local/district level
- Local/district office issues permits to operate, inspections, enforcement

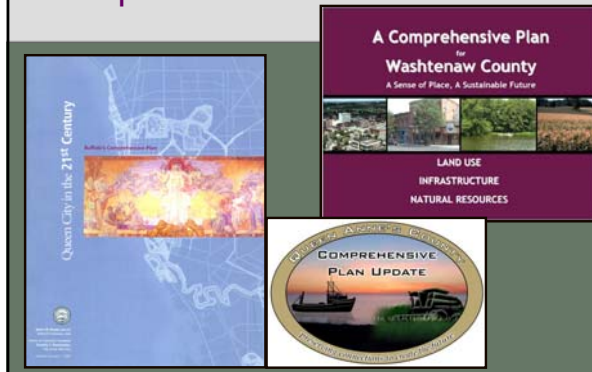
Local Regulation



Land Use Regulation



Comprehensive Plans



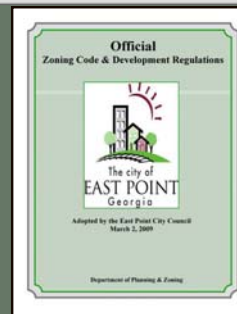
Comprehensive Plans

- Long-term policy guide for physical and economic development of jurisdiction
- Cover 10 – 30 year period
- Typically address:
 - Future land use
 - Traffic/transportation
 - Housing
 - Parks, recreation and open space areas, and
 - Public facilities

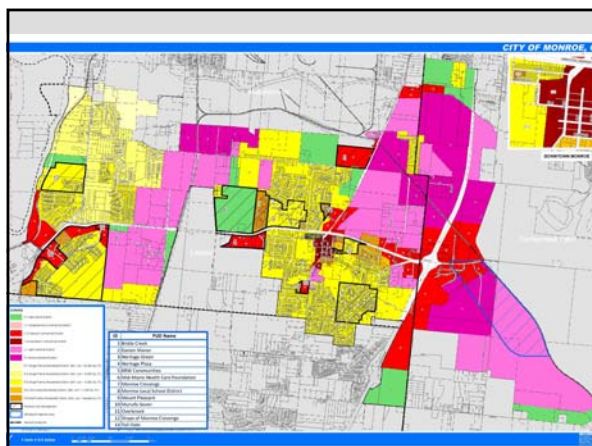
Zoning Ordinances

- Set forth the regulations to implement the policies in the comprehensive plan
- Determines
 - what can and cannot be built and
 - what activities can and cannot take place
 - on the parcels of land throughout a community.

Zoning



- Most cities have “use-based” codes
- City is divided into districts
- Different uses permitted in different districts



Why local regulation?

- Set official policy to increase access to produce
- Remove barriers to create and preserve farmers’ markets and healthy vending
- Allow communities to define “healthy vending”
- Allow communities to provide incentives to increase healthy food access

Vending Across America

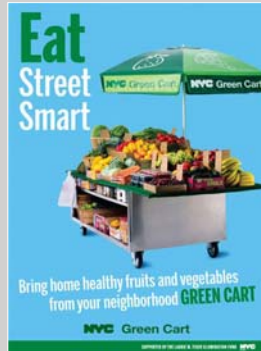


Los Angeles



New York City "Green Carts"

- 1,000 "green cart" permits
- Only unprocessed whole produce
- In designated underserved communities
- Accompanied by public education campaign, technical & financial assistance to vendors



Park District Policies



Kansas City, MO Vendor Policy

- Nutrition guidelines
- Incentives for vendors deemed "healthier" and "healthiest"
- Park permit discount
- Ability to vend in multiple parks under one permit

Oakland *fruterios*



Local regulation



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Mobile Vending Laws in the 10 Most Populous U.S. Cities

City	Restrictions on Vendors: Licensing or Education	Restrictions on Vendor: Duration of Operation	Hours of When Vendors are Allowed to Operate	Are Vendors Subjected to Inspections?	Are Vendors Subjected to Special Fees?	Other: School Regulations	Notes for Mobile Vendor: Permits and Licenses
Atlanta	Permits required for all vendors. Permits are issued by the city health department.	Permits are issued for a 12-month period.	Permits are issued for a 12-month period.	Yes	Yes	Yes	Mobile vendors are not allowed to operate in school zones during school hours.
Boston	Permits required for all vendors. Permits are issued by the city health department.	Permits are issued for a 12-month period.	Permits are issued for a 12-month period.	Yes	Yes	Yes	Mobile vendors are not allowed to operate in school zones during school hours.
Chicago	Permits required for all vendors. Permits are issued by the city health department.	Permits are issued for a 12-month period.	Permits are issued for a 12-month period.	Yes	Yes	Yes	Mobile vendors are not allowed to operate in school zones during school hours.
Dallas	Permits required for all vendors. Permits are issued by the city health department.	Permits are issued for a 12-month period.	Permits are issued for a 12-month period.	Yes	Yes	Yes	Mobile vendors are not allowed to operate in school zones during school hours.
Denver	Permits required for all vendors. Permits are issued by the city health department.	Permits are issued for a 12-month period.	Permits are issued for a 12-month period.	Yes	Yes	Yes	Mobile vendors are not allowed to operate in school zones during school hours.
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NPLAN's Healthy Food Access Tools

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Establishing Land Use Protections for Farmers' Markets

November 2009

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Mobile Vending: Challenges, Opportunities, Licensing, School To Health, Nutrition, Hydration, and Physical Activity Programs for Schools and Community Settings

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Farmers' Markets




A word about state law

2010-2011 KENTUCKY FARMERS' MARKET MANUAL

Rules, regulations, guidelines, suggestions and more for farmers' market vendors and managers






Time for the cute dog pictures




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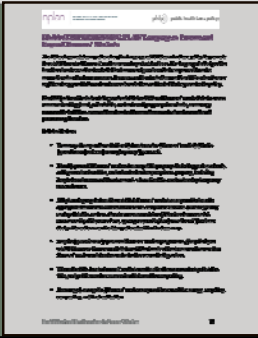
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Comprehensive Plan Language



- Long-term policy guide for physical and economic development of jurisdiction

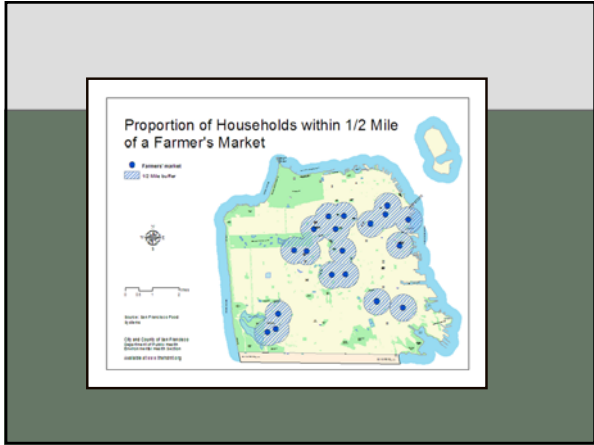
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Model Comprehensive Zoning Language to Restrict and Encourage Farmers' Markets

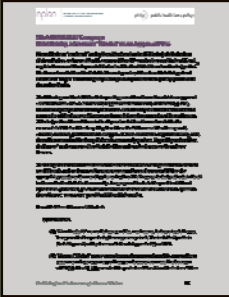
The following language is intended to be used in a zoning ordinance to restrict and encourage farmers' markets. The language is subject to modification to meet the needs of the jurisdiction. The language is intended to be used in a zoning ordinance to restrict and encourage farmers' markets. The language is subject to modification to meet the needs of the jurisdiction.

Definitions

- 1. "Farmers' market" means a market where farmers and other producers of agricultural products sell their products directly to consumers.
- 2. "Farmers' market" means a market where farmers and other producers of agricultural products sell their products directly to consumers.
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Farmers' Market Zoning Ordinance



- Laws that determine:
 - what can and cannot be built and
 - what activities can and cannot take place
 - on the parcels of land throughout a community.

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Model Comprehensive Zoning Language to Restrict and Encourage Farmers' Markets

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Define Farmers' Market



Permitted Use of Farmers' Markets

(e) Definitions.

- (1) "Farm Products" means fruits, vegetables, mushrooms, herbs, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese and other dairy products), and fish.
- (2) "Farmers' Market" means an outdoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more Producers, at which (a) at least [25] percent of the products sold are Farm Products or Value-added Farm Products and (b) at least [25] percent of the vendors regularly participating during the market's hours of operation are Producers, or family members or employees of Producers.
- (3) "Producer" means a person or entity that raises or produces Farm Products on land that the person or entity farms and owns, rents, or leases.
- (4) "Value-added Farm Product," means any product processed by a Producer from a Farm Product, such as baked goods, jams, and jellies.

Define Location



Define Operating Standards



Increase low-income residents' access



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Establishing Land Use Protections for Farmers' Markets



December 2008

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Produce Carts



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Urban Model Produce Cart Challenge: Improving Access to Fresh Produce by Creating A Special Program for Low-Income Residents

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A word about state law



Agaaaaaiiiiin?

FDA Model Food Code

- (3) "Food establishment" does not include:
 - (a) An establishment that offers only prepackaged foods that are not potentially hazardous (time/temperature control for safety) foods;
 - (b) A produce stand that only offers whole, uncut fresh fruits and vegetables;
 - (c) A food processing plant, including those that are located on the premises of a food establishment
 - (d) A kitchen in a private home if only food that is not potentially hazardous (time/temperature control for safety) food, is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority;
 - (e) An area where food that is prepared as specified in Subparagraph (3)(d) of this definition is sold or offered for human consumption;
 - (f) A kitchen in a private home, such as a small family day-care provider, or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served does not exceed 15, and the consumers are informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the regulatory authority; or
 - (g) A private home that receives catered or home-delivered food.

Your state may be different!



NPLAN Model Produce Cart Ordinance



Inspired by NYC Green Cart Program



Defines "Produce"

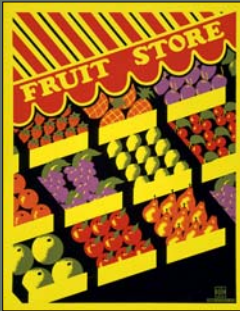
"Fresh Produce" means unprocessed, unfrozen, whole, raw fruits and vegetables that have not been combined with other ingredients.



Sets up streamlined permit process for sidewalk vendors selling fresh produce



Defines Location



Defines operating procedures



Suggests Incentives

- Expedited permits
- Reduced fees for locating in underserved neighborhoods
- No/low-interest start-up loans
- Technical assistance from city/nonprofits/business groups

Partnerships and Collaboration



NPLAN's Healthy Food Access Tools

