DETROIT’S URBAN AGRICULTURE ORDINANCE

DETROIT’S URBAN AGRICULTURE ORDINANCE REQUIRED THE CITY OF DETROIT TO NEGOTIATE OVER STATE-LEVEL LEGISLATIVE FRAMEWORKS, IN WHICH THE LARGE-SCALE FARMING INTERESTS HAD A MAJOR STAKE, SO AS TO HAVE THE AUTHORITY TO DEVELOP AND IMPLEMENT ITS ORDINANCE. DETROIT’S EXPERIENCE ILLUSTRATES THE PIVOTAL ROLE PLAYED BY INDIVIDUALS WITH LEGITIMACY IN BOTH PLANNING POLICY CIRCLES AND THE FOOD GROWING COMMUNITY, AS WELL AS THE NECESSITY OF ALTERING THE POLICY PROCESS TO ENABLE PARTICIPATION OF ACTORS WITH DIVERGENT VIEWS.
In the second half of the 20th century, the City of Detroit in the US state of Michigan experienced severe economic and social decline. The protracted collapse of the motor industry from the late 1950s onwards disproportionally impacted the city’s African-American residents, who were already suffering severe discrimination via segregation and housing policies. Racial unrest subsequently rose, culminating in the race riots of 1967. Many affluent white residents fled the violence, resulting in home and business foreclosures — including the shuttering of food retailers. By the 2000s, Detroit’s population had decreased from around 2 million to less than 700,000 (U.S. Census Bureau, 2010) and every major chain supermarket grocery store in the city had closed (Zenk et al., 2005; Smith & Hurst, 2007). Vast areas of city land became vacant, the blighted urban environment bred crime, and the city’s remaining predominantly black residents suffered disproportionally high rates of unemployment, diet-related disease, food insecurity, and other injustices including, ultimately, lower life expectancy (Gallagher, 2007).

Within the context of long-term social and economic struggle, a community farming movement has taken root in the city’s neglected, mainly African-American, neighbourhoods, and proliferated since the early 2000s (White, 2011). The movement has aimed to use farming as a means to improve the urban environment, foster social cohesion, and increase access to healthy food. With 35 square miles of vacant city-owned land, there is huge potential for food production projects of all kinds and sizes.

City policy has played a role in supporting urban farming in Detroit. First, in 2008 the City of Detroit adopted a food security policy drawn up by the Detroit Black Community Food Security Network that featured urban agriculture as one of eight work areas towards ensuring food security for all residents, in the context...
of poor neighbourhood access to fresh, unprocessed foods, and high rates of hunger, obesity and diet-related illness\(^\text{69}\) (DBCFSN, 2008). Then, in 2012, the Detroit City Plan was updated to feature urban agriculture as a desirable activity, acknowledging the environmental, economic and social benefits. Urban agriculture also features in the 2013 Detroit Future City Strategic Framework\(^\text{70}\), which makes it a priority for all city stakeholders to seek to reverse the decline and usher in stability through economic revival, addressing land use issues, improving city services, and fostering civic engagement (DEGC, 2012). Lastly, in 2013 the City adopted its first ever urban agriculture zoning ordinance\(^\text{71}\), thereby formally permitting, promoting and regulating certain types of food production as a viable land use.

69. The food security policy acknowledged at the most accessible stores in the city were party stores, dollar stores, fast food restaurants and gas stations. While most neighbourhoods had a grocery store within reasonable distance, they tended to stock very limited quality fresh, unprocessed foods — and many people could not reach stores selling healthier foods due to lack of a car and poor public transportation (DBCFSN, 2008).

70. Development of the Detroit Future City Strategic Framework was led by the Detroit Economic Growth Corporation, a non-profit organization that works closely with the City of Detroit and other partners. Implementation is driven by the DFC Implementation Office, an independent non-profit organization governed by a board of directors and funded by the Kresge Foundation, Erb Family Foundation, John S. and James L. Knight Foundation, Michigan State Housing Development Authority and Americana Foundation.

71. A second ordinance on raising livestock within the city has been drafted and is expected to be adopted in 2017.
The adoption of the urban agriculture ordinance was of key significance because although vegetable growing in the city was not illegal prior to 2013, neither was it a recognized land use within the city's existing zoning ordinances. This meant it was not possible for the City to sell vacant public land for food growing purposes. With no regulatory framework, there was no way of knowing whether produce was safe or laced with heavy metals from contaminated soil, and there was no basis for arbitrating in disputes between farmers and non-farming neighbours. Moreover, as urban agriculture gained momentum in the 2000s across the US, some affluent, white people were returning to the city to farm, in some cases seeking to acquire public land to establish for-profit enterprises. Often they neglected to consult — or even consider — the predominantly black residents who had developed their own visions for land use. There was a clear need for formal procedures to ensure equitable and just farming for all interested parties (Morrell, forthcoming).

The ordinance provides definitions for key urban agriculture terms and determines whether each can be practiced by default (‘by right’, i.e. only requiring a permit) or with special permission (‘conditional’, requiring more extensive site review). Activities that are generally allowed, either by right or conditionally, include urban gardens (under one acre, for personal, commercial or group use), urban farms (over one acre for personal, commercial or group use), greenhouses, and hoop-houses. Farmers' markets, hydroponics, aquaponics and aquaculture are generally prohibited in residential areas, but may be permitted in some, either ‘by right’ or on a ‘conditional’ basis.

The ordinance also contains clauses on nuisance caused by urban farming and the procedures for establishing a new food growing initiative.

This case study examines the processes that paved the way for Detroit's first urban agriculture ordinance, the policy development process, and implementation to date. It shows how Detroit was able to overcome the institutional barrier of the Michigan Right to Farm Act to have authority over urban agriculture — yet implementation has been hampered by entrenched perceptions, distrust and lack of understanding, both within the city government and the farming community.

THE NEED TO REGULATE URBAN AGRICULTURE IN DETROIT

The impetus for developing an urban agriculture ordinance came from a senior planner with the Detroit City Planning Commission, a body of nine commissioners that is served by staff in the Legislative Policy Division and that is responsible for the city's zoning ordinances. The planner, who was involved with the food growing community in a personal
capacity, noticed that urban agriculture was increasingly popular, and that businesses and social entrepreneurs were proposing large-scale farms in the city (e.g. Recovery Park and Hantz Farms\(^73\)). They approached the commissioners and made the case for creating a legal framework for it.

Having obtained the commissioners’ agreement, in 2009 the planner formed the urban agriculture workgroup to begin drawing up an ordinance. The original workgroup was made up of actors from organizations with a history of working on community agriculture projects and representatives of several city departments\(^74\) (City of Detroit, 2013b).

**SECURING EXEMPTION FROM STATE LAW**

The first step was to research similar ordinances across the US, as well as agriculture policy in the state of Michigan. It quickly emerged that the Michigan Right to Farm Act represented a major barrier to Detroit’s autonomy and authority to regulate urban agriculture. The Right to Farm Act protects commercial farm operations in Michigan from nuisance complaints.\(^75\)

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73. Recovery Park is non-profit organization formed in 2008 to provide opportunities for ex-offenders and recovering addicts, who usually face barriers to employment. Its model includes a 60 acre farm project (of which 35 acres are city land), produce from which is sold through a for-profit sister entity. Hantz Farms purchased 140 acres of city land from the City in 2012. The land was originally intended for the world’s largest urban farm but a strategy change — possibly influenced by resistance from small-scale urban gardeners and their allies — led to its development as commercial tree-growing operation.

74. Initial workgroup members were representatives from Detroit Black Community Food Security Network; the Greening of Detroit; Earthworks Urban Farm; Michigan State University; Wayne State University; and City departments, including Planning and Development; Recreation; Health and Wellness, Promotion; and, Buildings, Safety, Engineering and Environmental.

75. The Right to Farm Act was enacted in 1981 in the wake of complaints against established farm operations by people who had migrated to the countryside following the economic decline of Detroit and the 1967 riots. Many found the reality of rural life fell short of their bucolic lifestyle dreams; the noise, dust, smell and light pollution of large-scale agricultural operations was a nuisance. After a number of established farmers lost lawsuits brought by newcomers, the Michigan Farm Bureau lobbied for legal protection.
as long as they adhere to a set of voluntary Generally Agreed Agricultural and Management Practices (GAAMPs). What is more, the Right to Farm Act explicitly supersedes any local government rules, regulations or ordinances relating to agriculture across the whole of the state, making no distinction between rural and urban settings. While some people have argued — and continue to argue — that the Right to Farm Act provided an inherent ‘right to farm’ to urban farmers and was therefore in their interests (as discussed below), for the City of Detroit it meant that any city ordinance relating to agriculture would be unenforceable under state law.

It was clear that Detroit would need to secure exemption from the Right to Farm Act before work on the draft ordinance could continue. Following an approach from the senior planner, the Michigan Department for Agriculture and Rural Development (MDARD) convened a high-level meeting of Detroit City Planning Commission members, members of Detroit’s ordinance working group, and representatives of the Michigan Farm Bureau, which represents the state’s large-scale farming sector. An interviewee from MDARD said that while there was sympathy for Detroit’s predicament and no objection to enabling urban agriculture per se, the Farm Bureau would entertain no discussion of amending the Right to Farm Act, since opening it up for discussion might result in farmers having to cede hard-won ground over other aspects.

To Farm Bureau representatives, the Right to Farm Act was sacred. But for the City of Detroit, local authority was sacred. A series of further meetings took place as the actors sought a solution that would allow Detroit to move forward with its ordinance without compromising the interests of Farm Bureau members and large agribusinesses, or the safety net provided to them by GAAMPs.

Eventually, at a meeting of the Michigan Commission of Agriculture and Rural Development in December 2011, MDARD proposed an administrative fix that would leave the Right to Farm Act unchanged but amend the preface to the GAAMPs with the wording:

“This GAAMP does not apply in municipalities with a population of 100,000 or more in which a zoning ordinance has been enacted to allow for agriculture provided that the ordinance designates existing agricultural operations present prior to the ordinance’s adoption as legal non-conforming uses as identified by the

76. There are eight GAAMPs covering: manure management and utilization; pesticide utilization/pest control; nutrient utilization, care of farm animals; cranberry production; site selection and odour control for new and expanding livestock facilities; irrigation water use; and farm markets. The GAAMPs are the responsibility of the Michigan Commission of Agriculture and Rural Development. Each GAAMP is reviewed annually to take into account new scientific knowledge and environmental stewardship technologies.

77. The Right to Farm Act supersedes local rules following a 1999 amendment that was needed because rural residents had taken to lobbying township local authorities to change land use zoning from agricultural to residential use, so that pre-existing farm operations would have to close. The Right to Farm Act makes no distinction between rural and urban settings since at the time farming was an exclusively rural occupation and no-one foresaw that within a few years a new breed of urban farmer would start cultivating land within the city limits.

78. In the weeks before this administrative fix was proposed, two State Senators, Virgil Smith (Democrat) and Joe Hune (Republican), prepared a Bill seeking to amend the Right to Farm Act itself to exempt cities of 600,000 or more. The Bill was not introduced because, according to a statement on Senator Smith’s website, MDARD had asked the Senators to wait until after the Agriculture Commission meeting on December 14 so that it could propose an ‘administrative fix’ that would leave the Right to Farm Act intact (Smith, 2011).
Right to Farm Act for purposes of scale and type of agricultural use.” (MDARD, 2011).

This solution was satisfactory to the Farm Bureau. Detroit City Planning Commissioners also agreed as an initial, intermediate step, although they did raise concerns about its legality, prompting verbal reassurance by a representative of the Attorney General’s office that it was within the scope of the Right to Farm Act.

The motion to amend the preface of the GAAMPs — and thus to provide Detroit with a de facto exemption from the Right to Farm Act — was carried at the same meeting. The reasons for this unusual haste are not recorded, but the MDARD interviewee suggested it was because of the presence of Detroit City Planning Commissioners who could give interim agreement there and then. However, this did mean there was no opportunity for public comment, as is the norm during the annual cycle for GAAMPs amendments that runs from late August to February. As a result, there has been uncertainty among small-scale farmers about their rights — not only in Detroit but also in other urban areas with populations over 100,000. According to Wendy Banka, president of the Michigan Small Farm Council, which was formed in the wake of the 2011 amendment to advocate for small farmers’ rights, the administrative fix paved the way for an even more significant change to the GAAMPs in 2014 concerning livestock farming in residential areas — both rural and urban.

While the Detroit City Planning Commission no longer regards the solution to be interim and is not pushing for a statutory exemption via the Right to Farm Act itself, the Michigan Small Farm Council maintains that it was not legal for the GAAMPs to be amended in order to change the meaning of the Right to Farm Act. Consequently, it believes that many urban farmers have lost their ‘right to farm’ and claims the change was used to force Detroiters to give up farm animals. The Michigan Small Farm Council has continued to campaign for the amendments to be reversed.

DRAWING UP THE ORDINANCE

Once the institutional barrier posed by the Right to Farm Act had been overcome, the workgroup — now expanded to include a representative of MDARD and some other orga-
Research into urban agriculture ordinances of other cities in the US showed that the most controversial aspect was keeping animals within the city — indeed, in Detroit growing vegetables and fruit was not illegal, it was just not legalized. Keeping animals, on the other hand, was explicitly illegal. As a result, the senior planner who led the process decided to focus first on growing produce and to return to the question of livestock in a separate ordinance at a later date. This would prevent the animal aspects causing the whole endeavour to fail.

A slightly different process was followed for the two ordinances. For the first urban agriculture ordinance the senior planner drew up proposals and the workgroup met all together at regular intervals to provide feedback. The planner’s background as a community activist with experience in community gardens, food security and food sovereignty, including as an affiliate with the Detroit Black Food Security Network, meant this individual could bring pre-existing knowledge of the issues to the task and had credibility and trust of the urban agriculture community — in addition to professional planning expertise.

Once the draft ordinance had been drawn up, in September 2012 the Detroit City Planning Commission sought wider input from the community that would actually use it, by holding community meetings in three different parts of the city. The expanded workgroup was made up of representatives from the following organizations: Feedom Freedom Community Garden; Earthworks Urban Farm; Detroit Black Community Food Security Network; Greening of Detroit; Neighbors Building Brightmoor; Hantz Woodlands; Recovery Park; Genesis HOPE Community Development Corporation; Community Development Advocates of Detroit; Lower Eastside Action Plan; Detroiter Working for Environmental Justice; Green Door Initiative; Wayne State University (Law and Planning departments); Michigan State University; Michigan Department of Agriculture and Rural Development. It also included as representatives from the following City departments: the Planning and Development Department; Buildings, Safety Engineering and Environmental Department; Law Department; Detroit Water and Sewerage Department; and the Detroit City Council Research and Analysis Division (City of Detroit 2013b).
the city, in partnership with the Detroit Food Policy Council. The meetings — which were attended by almost 200 people in total — also informed Detroit’s farmers about the forthcoming ordinance. After this, the draft ordinance was circulated to City departments for review, before progressing to a public hearing at the City Planning Commission (City of Detroit, 2013b), which voted to recommend that the City Council adopt the ordinance. The City Council did so, unanimously, in March 2013 and the ordinance came into effect the following month. After the ordinance was adopted the City Planning Commission obtained an amendment to the Master Plan to include urban agriculture as a desirable activity. Nonetheless, the City Planning Commission still considers it to be a pilot policy that is open to further amendments once it has been tried and tested.

The process towards the second ordinance, on urban livestock, commenced in 2013. This time, according to the City interviewee, the senior planner for the Detroit City Planning Commission met with stakeholders separately rather than holding workgroup meetings, so as to avoid uncomfortable encounters between those keeping livestock illegally and city departments responsible for enforcing the current ban. This encouraged the farmers to be open about their activities and their needs. The urban livestock ordinance, which contains both zoning and animal control elements, has not yet been passed, but the Planning Commission expects it to go before the City Council in 2017. For this ordinance, a Council member has agreed to act as champion.

IMPLEMENTING THE ORDINANCE

The workgroup was intended to continue meeting as an ongoing advisory group on urban agriculture after the adoption of the first ordinance, in order to help the city devise regulations and policies related to agriculture and related programmes and activities (City of Detroit, 2013b). However at the time of writing, there was no ongoing formal governance structure, although the Detroit Food Policy Council continues to provide support to the senior planner as they advocate for further policy reform in support of urban agriculture.

To date, engagement from across municipal departments has been low, despite steps to make the process more collaborative: several departments were involved in the workgroup83, the draft was circulated for comment before adoption, and the ordinance itself requires site plans to be reviewed by the departments of Planning and Development, Public Works, Water and Sewage, and other agencies if deemed necessary (City of Detroit, 2013a). An interviewee attributed the low engagement largely to lack of understanding about what urban agriculture entails and how to support it; this individual acknowledged that inter-departmental education efforts had been insufficient84. For many Detroit officials there is an entrenched perception that development and housing are suitable land uses within a city and agriculture is not — even though at present the City is not in an economic position to support ambitious development projects.

83. See footnote 57.
84. The interviewee said that it plans to allow several months between the passing of the livestock ordinance and its entry into force in order to educate city departments and ensure there is a smooth, transparent process in place, that is understood both within the City Council and by the public. The need for an extended period before implementation was not anticipated for the first ordinance.
The procedures for making publicly-owned land available for food growing has also been a source of tension, with the Detroit Land Bank Authority’s current processes seen to be overly complex and opaque. The Detroit Food Policy Council is championing improved processes since, at present, the process is neither easy nor transparent. Mayor Mike Duggan has stated a preference for vacant land to be put in the hands of local residents, but there has been some concern in the media that piecemeal sell-off of land for small, non-profit food growing projects will prevent the acquisition of large areas for commercial farming that will create jobs and tax dollars (Gallagher, 2015). From the perspective of some small-scale farmers, however, it seems developers and proponents of large-scale commercial projects are receiving preferential treatment, while residents who wish to farm land in their neighbourhood are subject to another set of rules that are opaque and bureaucratic (Hester, 2016).

As for farmers, there is somewhat paradoxical evidence on the impact of the ordinance. On the one hand, take-up of permits for ‘by-right’ projects has reportedly been low. Some people who have practiced urban agriculture covertly for many years, and with no enforcement issues, see acquiring a permit as a waste of time and money — the cash-strapped city is unlikely to pursue and sanction permit-less farmers. On the other hand, there are anecdotal reports that the number of registered urban gardens in Detroit has continued to grow since 2013, as would-be gardeners are emboldened by the existence of a regulatory framework and no longer feel compelled to hide their food growing projects — whether they hold a permit or not (Sands, 2015). This would indicate that permit take-up may not be a fair indicator of the ordinance’s success, and that ultimately the City has realized much of its aim merely in establishing this regulatory framework.

The Detroit City Planning Commission, meanwhile, has the authority to amend the ordinance as it deems necessary, but there is no public information on indicators or procedures for monitoring the impacts.

**SUMMARY OF ENABLERS**

The senior planner within the Detroit City Planning Commission was a key figure in initiating the urban agriculture ordinance and enabling...
its development. With experience in professional urban planning and in the urban farming community, this individual was regarded as a legitimate leader both in the eyes of City and of community actors. Consequently, the senior planner secured the participation of a variety of city and state departments and representatives of the farming community. They also had in-depth awareness of the concerns, priorities and working methods of both groups.

For its part, the City Planning Commission enabled the planner to initiate the ordinance’s development by granting its support, both for the proposal and approval of the draft ordinance, thereby helping to secure the City Council’s backing. Indeed, the institutional home of the ordinance within the City Planning Commission — the guardian of all city ordinances — is helpful as this body’s recommendations hold some sway with the City Council.

Policymaking was research- and evidence-based; the planner reviewed other cities’ ordinances and learned from their experiences. This not only helped ensure the ordinance was appropriate and technically sound, but it also led to the identification of barriers that were subsequently overcome. The first of these was the realization that the Michigan Right to Farm Act posed an institutional barrier to development and implementation of a city-level ordinance; this was overcome by finding an alternative to amending the Act that would not compromise the interests either of Michigan Farm Bureau members or of the City of Detroit. The second potential barrier was the likelihood of livestock becoming a contentious issue in policy development and adoption, in response to which livestock was hived off from the initial ordinance.

The convening of the workgroup ensured the ordinance was developed through a multi-actor, multi-sector process. This secured the participation of actors who would be most affected by it, and met their needs. However, neither this participatory process nor subsequent outreach efforts have enabled extensive take-up of permits or widespread engagement across city departments.

The workgroup has not continued as a governance body though the implementation stage, despite initial plans. This may have contributed to some actors’ disengagement, although the Detroit Food Policy Council has at least partially filled the gap through its advocacy work, and the senior planner is in charge of monitoring and updating the ordinance as required.

The openness to learn from experience and adapt the policy accordingly, together with renewed educational efforts around the impending livestock ordinance, might enable greater engagement in the future.
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<tr>
<th>ACTORS</th>
<th>ROLES</th>
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<tbody>
<tr>
<td>Senior planner with Detroit City Planning Commission</td>
<td>• Initiated and led ordinance development process</td>
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<td></td>
<td>• Initiated discussions about RTFA with Michigan Department of Agriculture and Rural Development</td>
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<td>Detroit City Planning Commission</td>
<td>• Guardian of City planning ordinances</td>
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<td></td>
<td>• Gave approval for draft urban agriculture ordinance to be developed</td>
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<td></td>
<td>• Gave approval for GAAMPs preface amendment to enable ordinance</td>
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<td>• Recommended adoption of ordinance by Detroit City Council</td>
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<td>Detroit City Council</td>
<td>• Adopted ordinance</td>
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<tr>
<td>Michigan Department of Agriculture and Rural Development</td>
<td>• Mediated process to overcome barrier of the Right to Farm Act</td>
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<td>Michigan Farm Bureau</td>
<td>• Represents big farm interests in Michigan</td>
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<td></td>
<td>• Refused to open up Right to Farm Act for review</td>
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<td></td>
<td>• Agreed to the proposed GAAMPs amendment</td>
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<tr>
<td>Michigan Small Farm Council</td>
<td>• Represents collective interests of small-scale farmers in Michigan, following exclusion from GAAMPs amendment discussions</td>
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<td></td>
<td>• Campaigns for GAAMPs amendment to be reversed</td>
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<tr>
<td>Small scale urban farmers and community farming groups</td>
<td>• Growing food within communities for many years</td>
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<td></td>
<td>• Some participated in work group and consultations</td>
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<td>Entrepreneurs proposing large-scale urban farms</td>
<td>• Proposed large-scale farms</td>
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<td></td>
<td>• Participated in workgroup</td>
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<tr>
<td>Various city departments</td>
<td>• Participated in workgroup, but generally low engagement in implementtation</td>
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<tr>
<td></td>
<td>• Some departments have a role in site plan review</td>
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<tr>
<td>Detroit Land Bank Authority</td>
<td>• Responsible for returning vacant land to use</td>
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<td></td>
<td>• Makes decisions on sale of land for food production</td>
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<tr>
<td>Detroit Food Policy Council</td>
<td>• Advocates for simpler, more transparent Land Bank and permitting decisions, to enable farming projects of all sizes</td>
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