

Appendix: Lake County Local Food Policy Analysis

This appendix contains the regulatory assessment and recommendations for three policy areas that affect local food systems: (I) Zoning, (II) Public Health and Safety, and (III) Environmental. Openlands conducted a thorough survey and analysis of the relevant policy areas pertaining to Lake County local food systems, and then organized their research into three matrices – one per policy area. Each matrix contains: 1) an overview of the relevant ordinances and laws; 2) a description of the existing conditions of that topic in Lake County; and 3) a set of recommendations regarding potential policy changes and drawing from “best practices” from outside of Lake County. This work was conducted over the course of several months in 2012. Multiple iterations of these matrices were reviewed and updated by this project’s steering committee, and their findings directly inform this report’s regulatory recommendations.

Matrix I: Zoning Regulations

This matrix provides information pertaining to Lake County’s zoning regulations and how they bear on local food production in Lake County, including an overview of the Unified Development Ordinance (UDO), existing conditions, and recommendations for potential policy change and organizational restructuring that will foster expansion of sustainable local food production and a robust local food economy in Lake County. This analysis draws from additional resources beyond the County’s UDO, including the December 2011 report, “Promoting Sustainable Building and Development Practices in Lake County,” as well as the results of a qualitative survey designed to identify barriers to sustainable agriculture across several stakeholder groups in Lake County.

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<p>Lake County regulates zoning under its current Unified Development Ordinance (UDO) and accompanying zoning maps, adopted on April 11, 2000, by which the County is divided into various Zoning Districts (see UDO, Article 6, Use Table).</p> <p>The UDO specifies standards applicable to certain listed uses (Article 6, Use Standards) and contains regulations relating to:</p> <ul style="list-style-type: none"> • Site capacity, site plan review and natural resource protection (Art. 4); • Density and dimensional standards (Article 7); • Site development regulations (Article 8); off-street parking, loading, landscaping, 	<p>The Lake County Planning, Building, & Development Department conducted a land use inventory in 2000 and 2005 to measure land use changes within that period. Based on the 2005 inventory study, the Lake County Caliper Report (2007, revised 2009) reported that 11.6% of Lake County’s land base, approximately 35,022 acres, was in agricultural use. This marked a 19.6 % decrease in agricultural land in that five year period. The 2007 Census of Agriculture in Lake County, IL provides updated information about agricultural land use and indicates that in 2007 there were 34,525 acres of farmland in the County, marking a further reduction in farmland.</p>	<p>Goal: The Lake County Board supports the preservation of agricultural land in Lake County and the expansion of sustainable local food production.</p> <p>To address this decline, the 2007 Framework Plan offers recommendations “to preserve select remaining farmland” (Goal 4.8),</p> <p>Openlands supports Goal 4.8, and its implementation policies:</p> <ul style="list-style-type: none"> • 4.8.1 Policy: Promote new and expanded farming activities... that provide fruits and vegetables...and other agricultural products directly to consumers. • 4.8.3 Policy: ...analyze the impacts of

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<p>lighting and signage (Article 9);</p> <ul style="list-style-type: none"> • Subdivision standards (Article 10); • Nonconformities (Article 12). 	<p>The 2007 Census of Agriculture in Lake County, IL provides information about agricultural land use:</p> <ul style="list-style-type: none"> • 34,525 acres of farmland • 396 farms • Top crops: corn and soybeans • 390 acres used for vegetable production • 78% of total value of production in crops— 22% in livestock • 49 farms sell direct to consumers <p>Coinciding with this farmland decline is an interesting trend of an increasing number of smaller sized farms in the County. The number of total farms increased between 2002 and 2007, as reported in the agricultural census, indicating the growing trend of smaller sized farms.</p> <p>Still, farmland preservation is at risk based on the decreasing acreage of total farmland in Lake County, as evidenced by the Caliper Report and 2007 Agricultural Census.</p> <p>In January 2010, the Lake County Board adopted the Lake County Vision for Land Preservation, which established the vision that by the year 2030, at least 20 percent of Lake County – or 60,000 acres in total – will be permanently protected “as natural areas, parks, trails, farmland, and scenic views.” All 16 county land conservation organizations have adopted the same vision.</p>	<p>County regulations on farming operations ... to identify County regulations that make it difficult to start, expand, or continue agriculture operations.</p> <ul style="list-style-type: none"> • 4.8.4 Policy: ...establish partnerships to protect farmers who want to keep farming but need financial incentives. • 4.8.5 Policy: ... help retain the farming, open space, and scenic vistas for future generations. • 4.8.7 Policy: ... consider providing funding for farmland preservation. <p>The Lake County Board would support this goal by promoting high-value operations – such as fresh, locally grown produce – endorsing conducive changes to zoning and other regulations, and by supporting proactive work by other entities (ref Caliper report) to increase conservation easements and to encourage farmland protection in the County on both public and private land for sustainable agriculture.</p> <p>Openlands recommends addressing policy-based zoning barriers and potential changes to the UDO to foster sustainable farming in Lake County, such as potentially using public land (i.e. Forest Preserve District land) for local food production. Further, Openlands supports local sustainable farming as an economic development opportunity in Lake County and as a strategy to improve health and well-being of residents by increasing the availability of fresh, locally grown food to help prevent against diet-related illness.</p>

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		<p>These two approaches support the Lake County Strategic Plan’s goals “to enhance livability and economic opportunity” and to “build healthy and resilient communities” in the County.</p> <p>[Lake County Strategic Plan, September 8, 2009, pages 3, 7] Openlands also endorses setting targets of a portion of the public land used for agriculture (2,500 total acres) that could be used for sustainable local food production.</p>
(A) Agricultural Terms & Definitions		
<ul style="list-style-type: none"> • The UDO defines “agriculture” as “[t]he tilling of soil; the growing of crops; the operation of non-retail greenhouses and nurseries; the raising and/or keeping of livestock; equine; fur-bearing animals; game birds; poultry and farm animals; and incidental structures for carrying out the above.” • “Agricultural Practices” are defined as “practices [that] include: normal farming; silviculture and ranching activities such as gardening, plowing, seeding, cultivating, harvesting for the production of food, fiber, forest products, nursery stock and livestock; maintenance of agricultural drain tiles, irrigation and drainage ditches; maintenance of farm roads and other access areas for farm vehicles and equipment use. [Revised 05.09.06]” • “Livestock” is defined as “[a]nimals that are customarily kept for producing food or fiber.” • A “farm animal” is defined as “[a]ny animal customarily raised on farms 	<p>The definitions for “agriculture” and “agricultural practices” in the UDO seem relatively broad and permissive. In addition, “crop raising,” an undefined term used in the UDO, is allowed as a permitted use in all zoning districts and on any size parcel of land. Given that crop raising is undefined, it implies a broad category of unregulated agricultural practices on small sized farms and/or on residential properties, which would be supportive of local food production and practices.</p> <p>Agricultural practices for which the UDO does not provide definitions, include:</p> <ul style="list-style-type: none"> • “local farm or food products;” • “beekeeping,” “apiary,” “bee,” “colony,” or “hive”; • “aquaponics,” or “aquaculture”; • “agricultural tourism” • “debris” <p>The lack of terminology and specification of parameters for these types of agricultural practices and local food byproducts in the UDO could pose future problems if these practices</p>	<p>Goal: Promote the local food system. The term “local food system” refers to the infrastructure needed to support local food production, including preserving farmland, matching supply and demand, building the local supply-chain (packing, processing, and distribution), as well as local government policies, programs, and decisions.</p> <ol style="list-style-type: none"> 1) Establish definitions in the UDO for new sustainable farming practices to clarify permitted agricultural uses on non-exempt agricultural land 2) Specify “local food” definitions to set economic targets for local food sales and bolster local food marketing. <p>Goal: Allow new types of farming practices: Specifically, Openlands recommends allowing chickens to be kept on residential properties as well as allowing other new farming practices, such as bee-keeping and aquaculture. Incorporating definitions into</p>

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<p>rather than in residential areas including alpaca, llama, burros, cattle, bison, mink, chickens, turkeys, ducks, geese, donkeys, emus, goats, horses, mules, ostriches, swine, sheep or lambs” (see Article 14, Sec. 14.2).</p> <ul style="list-style-type: none"> • “Agricultural education” is defined as “any assemblage of structures and uses intended to educate the general public about the history, science, business, and technology of agriculture, as defined in this Section, when operated in conjunction with a principal agricultural use on sites of 200,000 square feet or greater. Such structures may include, but are not limited to, classrooms, displays of equipment, and working models of agricultural implements, devices or machinery. [Revised 07.08.03]” 	<p>conflict with definitions of permitted (and prohibited) agricultural uses on non-exempt agricultural/residential zoned land.</p> <p>For instance, the provision (6.3.3.2 Non-Exempt Uses (c)) states that “no farm animals, other than equine or beekeeping as an accessory use to a principal agricultural use, shall be kept on zoning lots of less than 200,000 square feet in area.” Although beekeeping is permitted, there is no definition and/or parameters for beekeeping in residential areas, which could lead to potential discrepancies in interpretation.</p> <p>Further, the UDO defines chickens as “farm animal[s],” implying that they are prohibited in residential areas. This is an impediment to people who would like to keep backyard chickens.</p> <p>Finally, without a definition for “debris” as it relates to yard or garden maintenance standards, it could be viewed as agricultural waste and deemed an incompatible use in residential zones.</p> <p>These discrepancies could pose potential problems for sustainable local growers, beekeepers, backyard gardeners, and aquaculturists.</p>	<p>the UDO for these new types of sustainable farming practices (including the specific number of bees or fish permitted under the ordinance) could help provide clarity to sustainable local food producers.</p> <ol style="list-style-type: none"> 1) Allowing residents to keep backyard chickens, as endorsed by the Lake County Sustainable Building Practices report (p. 75) would be another way to foster local food practices. Using Evanston, IL’s Backyard Hens ordinance as a model example to amend Lake County’s code is recommended. 2) Clarifying language to allow beekeeping in residential areas and on non-exempt land where there isn’t another principal agricultural use would be helpful to fostering this type of sustainable practice. There are many localities which have ordinances that Lake County could model after, including Cleveland, OH, Madison, WI, and Minneapolis, MN. These regulations all specify if there is a restriction on lot size, on the number of allowable hives, on setback from lot line and residential property, etc. 3) Openlands also recommends referencing Illinois Public Act 096-0579 (Section 5. Definitions) for guidance on appropriate terminology and definitions for local food products and sales. <ul style="list-style-type: none"> • The Act defines “[l]ocal farm or food products” as “products grown, processed, packaged, and distributed by Illinois citizens or businesses located wholly within the borders of Illinois.” This could be adapted more narrowly depending on what is most suitable to

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		fostering local food production and a vibrant local food economy in Lake County.
(B) AGRICULTURE USE CATEGORY (Sec: 6.3.3) The UDO’s regulations classify agricultural uses as exempt uses (i) and non-exempt uses (ii).		
(i) Exempt (6.3.3.1)		
<p>Uses that qualify for an agricultural exemption under Illinois state statutes.</p> <ul style="list-style-type: none"> • The minimum lot area shall be 200,000 square feet. (4.59 acres or more). • A site plan shall be submitted at the time of application showing existing and proposed structures and uses. • Minimum setbacks shall be as follows: <ul style="list-style-type: none"> • Street: 30 feet • Side: 30 feet • Rear: 50 feet <p>Caveats:</p> <ul style="list-style-type: none"> • Exempt agricultural uses are exclusive of easements and rights of way. • Both exempt and non-exempt agricultural uses are subject to the site development requirements of the UDO, which primarily addresses new development requirements for flood control (see Article 8). • Agricultural practices outside the floodplain do not require a site development permit, unless there are structures causing one acre or more of new impervious surface cover and other significant impacts to the surrounding natural drainage areas (Art. 8, Sec. 8.1.3.3). 	<p>Based on statistics reported in the 2007 agricultural census, there are 34,525 acres of farmland in Lake County. This is an 11 % decrease in farmland acreage from 2002. In 2007, there were approximately 225 farms that were more than 9 acres in size. The average farm size in 2007 was 87 acres, which is a 24 % decrease from the average farm size in 2002. Overall, the changes in farmland in a five year period were substantial, and indicate a shift toward smaller size farms and an overall decline in farmland in Lake County.</p> <p>There are still many large farms, indicated by the average farm size, that qualify for agricultural exemption. Therefore, the zoning regulations are permissible of all agricultural uses and animal husbandry on agriculturally exempt land.</p> <p>Further, buildings, including commercial building, used principally for agricultural purposes on agriculturally exempt land (200,000 square feet or more), do not require inspection by the Planning Building Department, and do not require a building permit. This is inclusive of buildings used for “agricultural education” and agricultural tourism.</p> <p>Based on survey results and identified trends, outbuildings used for agricultural purposes appear to be a common infrastructure need to</p>	<p>Goal: Invoke Goal 4.8 in the Framework Plan to preserve sustainable farmland and promote new and expanded sustainable farming activities on both agriculturally exempt and not-exempt land.</p> <p>The UDO’s regulations do not appear to require any amendments as they pertain to agriculturally exempt land.</p>

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<p>Application requirements:</p> <ul style="list-style-type: none"> In conjunction with the building permit and site development process, applicants are required to submit an application for Agricultural Exemption if it qualifies under State Statute, 55 ILCS 5/512001. 	<p>support sustainable agriculture. For instance, 46% of surveyed local food producers responded that they have constructed outbuildings and/or other needed facilities with respect to the alterations they made to the land they farm so that it is suitable for sustainable agriculture.</p> <p>Therefore, the UDO’s regulations of on-site development for exempt agricultural land do not pose a barrier. Further, based on survey results, the affordability of land is a key barrier to sustainable farming in Lake County. This is compounded by lease structures that do not allow tenants to construct outbuildings.</p>	
(ii) Non-Exempt (6.3.3.2):		
<p>Uses that do not qualify for an agricultural exemption under Illinois state statutes.</p> <ul style="list-style-type: none"> Non-exempt agricultural land is qualified as land that is less than 200,000 square feet (less than 4.59 acres). Non-exempt agricultural uses may be subject to the Site Capacity Calculation/Site Plan Review procedures of Sec. 4.1. Site Capacity/Site Plan Review shall be conducted concurrently with any required Conditional Use Permit review. Minimum setbacks shall be as follows: <ul style="list-style-type: none"> Street: 30 feet Side: 30 feet Rear: 50 feet No farm animals, other than equine or beekeeping as an accessory use to a principal agricultural use, shall be kept on zoning lots of less than 200,000 	<p>There is a trend of smaller sized farms in Lake County, with the number of 0-9 acre farms increasing from 81 farms in 2002 to 162 farms in 2007(Agricultural Census). Additionally, based on 20 survey responses from local producers surveyed in Lake County, 45 percent of farms are 5 acres or less, and thereby likely qualify as non-exempt agricultural uses in Lake County.</p> <p>Only 35 percent of the producer respondents identified zoning codes as a moderate barrier to their farming practices, suggesting that zoning requirements for non-exempt agricultural uses do not pose a stringent barrier. Further, given that non-exempt agricultural uses are permitted uses in all zoning districts, zoning does not appear to be a significant barrier to small-scale local food production in Lake County.</p>	<p>Goal: Invoke Goal 4.8 in the Framework Plan to preserve sustainable farmland and promote new and expanded farming activities on both agriculturally exempt and not-exempt land.</p> <p>Openlands recommends that zoning restrictions on non-exempt uses, such as that chickens are prohibited in residential zones, be reevaluated and potentially amended. Openlands would endorse an amendment to permit the keeping of backyard chickens on residentially zoned, non-exempt land. Additional language about debris and upkeep of these agricultural uses – particularly on residential land – could be addressed through such an ordinance.</p> <p>As the “Promoting Sustainable Building and Development Practices in Lake County”</p>

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<p>square feet in area.</p> <ul style="list-style-type: none"> The UDO classifies the raising of crops on sites of less than 200,000 square feet, stables on site of 200,000 square feet or more, and agricultural uses not otherwise classified on sites of 200,000 square feet or more as permitted uses in all zoning districts. 	<p>However, there are some evident restrictions, such as that chickens are prohibited in residential areas (see (6.3.3.2(c))). This does present a barrier to local producers who want to keep chickens on non-exempt agricultural land.</p> <p>Another restriction concerns the construction of outbuildings on non-exempt land (see section (C): <i>Accessory Use</i> for more).</p>	<p>document suggests, Openlands recommends evaluating model chicken ordinances from elsewhere in the region and country for instructive examples of how to relax restrictions and allow residential chicken coops. Perhaps the more permissible regulation could relate to a setback restriction rather than a lot size requirement.</p> <p>Model ordinances include:</p> <ul style="list-style-type: none"> Evanston, IL: Backyard Hens and Beekeeping: The City of Evanston has amended its code in recent years to allow both beekeeping and the raising of hens. Salt Lake City, UT: Chicken Ordinance and Beekeeping Ordinance Cleveland, OH: Chickens and Bees Ordinance (Ref. Page 76 in Sustainable Practices document). <p>There are several communities in Illinois and Wisconsin which allow chicken-keeping on residential property, from Madison, WI to Naperville, IL. These communities simply set a few key limitations on chicken-keeping, for instance: the number of allowed hens ranges from 2 to 8; setback restrictions on the chicken coops' distance from both the lot line and the residence are established.</p>
(iii) Agricultural Areas (4.3.2.6)		
<p>Community gardens are specified as a permitted use in Lake County's UDO (Section 4.3.2.6), which allows use of common open space and deed restricted</p>	<p>Given the prime soil conditions in Lake County (reference Table 8. Prime Farmland, p. 284-295 in the Soil Survey of Lake County, 2002), agricultural production is an optimal use of open</p>	<p>Goal: Maintain the existing community gardens in Lake County and foster the creation of more community gardens, particularly food allotment gardens that will</p>

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<p>open space areas for community gardens (see Sec. 4.3.2 Designation of Open Space).</p> <p>Specifically, Section 4.3.2.6 defines "Agricultural Areas as open space areas designated for agricultural uses and the production of agricultural products. Agricultural areas may also be used as community garden plots within a development."</p> <p>Community gardens can be used to grow and harvest local food.</p>	<p>space, in addition to conservation and preservation of natural areas and open lands, in Lake County. Community gardens are a good way to preserve land while fostering the potential for local food production.</p> <p>Some examples of community gardens in Lake County include:</p> <ul style="list-style-type: none"> ● Prairie Crossing ● Mano a Mano ● Avon Township ● College of Lake County, Grayslake campus ● Village of Grayslake, senior housing complex <p>However, without a definition for "debris" as it relates to community garden maintenance standards, there could be potential problems with agricultural "debris" being construed as "waste" and deemed an incompatible use in certain zoning districts.</p>	<p>spur local food production.</p> <p>Goal: In addition, the potential to use public land (i.e. Forest Preserve District land) for community gardens could further enhance the viability of local food production, as long as it is not in conflict with the conservation mission of the Forest Preserve District of Lake County.</p> <p>Openlands also supports addressing weeding and maintenance issues for community gardens in the UDO.</p>
(iv) Signage		
<p>The UDO specifies:</p> <ul style="list-style-type: none"> ● The total maximum sign area allocation by a formula (see Table 9.9-2) derived from the lot, building, or wall area frontage on that street. ● Location requirement that all signs be located outside of the public right-of-way. ● Signs may be located within required landscaping if the Planning, Building and Development Director determines that the intent of the landscaping regulations will not be adversely affected. ● All signs that are not expressly 		

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<p>permitted in the ordinance are prohibited.</p> <ul style="list-style-type: none"> • Temporary use signs, which are allowed in residential, non-residential and institutional zoning districts only on private property, outside of the public right-of-way. One temporary sign, up to 16 [Revised 11.14.00] square feet in area, shall be permitted per entrance or per road frontage [Revised 11.14.00] for temporary uses and special events for which a temporary use permit has been issued in accordance with §§6.5.2. • The total number of signs for a temporary use or a special event shall not exceed 2. [Revised 11.14.00] Such signs shall be allowed for the duration of the temporary use permit or such other time as expressly established at the time of approval of the temporary use permit. 		
(C) ACCESSORY USE (Article 6, Sec 6.4):		
<p>The UDO establishes zoning standards for accessory uses for both exempt and non-exempt agricultural land (Sec. 6.4):</p> <ul style="list-style-type: none"> • For agriculturally-exempt uses, accessory use buildings are permitted uses and are not inspected nor regulated by the build code standards (see caveats in (B)(i). • Regardless of the zoning district, accessory uses on parcels of land less than 4.59 acres (i.e. – non-exempt) are regulated by the UDO and must meet building code standards. • For residential and non-exempt 	<p>Survey respondents indicated that zoning requirements pertaining to accessory uses can pose a barrier to having agricultural accessory structures on their small-scale farms (on less than 4.59 acres of land), which are qualified as non-exempt agricultural land. This is a problem as accessory out-buildings, including storage structures and seasonal-extension structures, have been identified as important infrastructure needed for farmers to convert to sustainable farming and increase their economic viability.</p> <p><u>Seasonal-extension structures</u>: Local food producers are interested in using these types of</p>	<p>Goal: Facilitate the construction of accessory structures that provide the necessary infrastructure to make local sustainable agricultural more viable on residential and non-exempt land. This also makes the economic productivity of small lot sizes more viable.</p> <p>Per Policy 4.8.3 in the Framework Plan, Openlands recommends "...[analyzing] the impacts of County regulations on farming operations ... to identify County regulations that make it difficult to start, expand, or continue agriculture operations," to see</p>

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<p>agricultural uses, “accessory uses and structures must be subordinate to the principal use and structure on the subject lot in terms of area, extent and purpose. The total gross floor area of all accessory structures on a lot shall not exceed 1.5 times the total gross floor area of the principal structure on the lot.” (6.4.2.5)</p> <ul style="list-style-type: none"> • Further, for residential/non-exempt uses, there can be no more than three accessory buildings, and the height and setbacks are regulated. The building can only be one story. (6.4.2.7) • Uses Prohibited as Accessory Uses [Revised 11.08.05, 12.13.05, 03.11.08] (6.4.2.9) include: • Uses specifically prohibited by §§6.4.5.5 and §§6.4.11 as residential accessory uses, such as “food service businesses,” including all types of restaurants and food catering operations, shall be prohibited as home occupations. • Temporary Hoop or other Frame-Designed Structures not meeting applicable building codes except as allowed under the State’s Agricultural Exemption. • Temporary storage structures including trailers and freight containers not meeting Building codes. • A tack shop would be considered a retail use, and as such would be permitted only in those Zoning Districts that allow retail sales uses. • A riding show would be considered a 	<p>structures to have better weather protection so they are able to extend their growing season; this allows them to increase their crop productivity and earning potential. However, there are certain limitations to building these types of structures on non-exempt agricultural land.</p> <p>For instance, certain seasonal extension structures, such as hoop houses, are not allowed to be kept as permanent structures on non-exempt land, as they are not compliant with the International Code Council’s (ICC) building standards for wind load, snow load, ingress/egress, and therefore, are not allowed.</p> <p>Certain temporary structures (like tents or other season-extending facilities) that are properly anchored can be used on a temporary basis for no more than 180 days out of a year, beyond which those structures must be disassembled. There are other caveats, such as that the temporary structure should not be accessible by the general public and that the structure must comply with ingress/egress regulations. If these conditions are met, then that structure is likely permitted on any type of non-exempt property. An example would be a hoop house on a residentially zoned property that is used to raise crops for wholesale beyond the spring and summer seasons, and which is only accessible to the property owners or farm staff.</p> <p>Permanent structures like sheds and barns are compliant with ICC restrictions and are typically allowed on non-exempt agricultural land, as long as there are no more than three accessory</p>	<p>whether or not accessory use regulations may be amended to be more permissible on non-exempt land.</p> <p>One recommendation is changing the UDO standard of using the floor area ratio (FAR) requirement for accessory buildings and instead using the total lot size as a standard. accessory uses’ percentage of lot size, rather than basing it on the FAR of the accessory structures to the principal structure. Examples from other places:</p> <ul style="list-style-type: none"> • Baltimore: No limit on the type of structures for extending the growing season (§14-327(2)). “The combined area of all structures is limited to 15% of the lot area.” • Chicago: “Accessory buildings, such as sheds or greenhouses, shall not exceed more than 10% of the site area...” (§ 17-9-0103.5-B). • San Francisco: Greenhouses are a conditional use in residential zones (giving the government control on a case-by-case basis) <p>Additionally, using the total lot size standard for regulating the square footage of accessory buildings would likely encourage compatible land uses and maintain set-back requirements. This addresses concerns about maintenance and nuisance between neighbors in residential zones while also</p>

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<p>temporary event, requiring a temporary use permit.</p>	<p>buildings on site that comply with the setback, height, and floor area ratio (FAR) requirements in the UDO.</p> <p><u>Storage facilities:</u> Aside from agricultural-exempt uses, a storage facility would only be permitted by right in an Industrial zoning district, or as a Conditional Use in a General Commercial zoning district. If a storage facility were a smaller structure like a garden shed it would likely be permitted by the county on non-exempt land.</p> <p>Overall, these zoning regulations may present a barrier to accessory uses on residential and non-exempt agricultural land as more people begin to farm on smaller-sized plots.</p>	<p>permitting the necessary infrastructure for small farmers to operate.</p> <p>Additionally, Lake County could consider rezoning non-exempt properties on a case-by-case basis if the principal use of that property is changed to agriculture (with the primary purpose of the growing to be sale rather than personal consumption). This would be more permissible to the number and size of the accessory uses allowed on that lot.</p>
(D) Temporary Uses (Article 6, Sec 6.5)		
<p>Temporary Use Permit:</p> <ul style="list-style-type: none"> No temporary use shall be established unless a Temporary Use Permit evidencing the compliance of such use with the provisions of this section and other applicable provisions of this Ordinance has been issued by the Planning, Building and Development Director. The Planning, Building and Development Director shall be authorized to impose conditions on the application in accordance with §§3.1.9. Temporary uses pertaining to agricultural and food practices, include: 6.5.4.14 Any food service operation that sells, prepares or serves potentially 	<p>Temporary use permitting bears significantly on the viability of local food production, preparation and sales as well as agricultural tourism. Therefore, it is important that the UDO's temporary use provisions are supportive of these types of practices.</p> <p>For instance, temporary infrastructure, such as tents, help local food producers sell farm products as well as prepared foods at farm stands and or farmer's markets. Due to the high percentage (about 95%) of local food producers who sell directly to consumers at either farm stands or farmer's markets, the ability to temporarily erect a tent is significant to foster their sales and earning potential.</p>	<p>Goal: Maintain or improve upon the regulatory status of temporary use permitting as it appears to be favorable to local food production, preparation, sales and agricultural tourism.</p> <p>The main recommendation is to foster clarity of which aspects of temporary use permits are regulated by Lake County's Planning & Building Department, versus which are regulated by the Health Department (i.e. Food Service Permit).</p>

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<p>hazardous food must obtain an approved Food Service Permit from the Lake County Health Department and is subject to inspection. [Revised 06.13.00]</p> <ul style="list-style-type: none"> • Temporary Uses Tents erected for a consecutive period of more than seven (7) days in conjunction with a series of temporary events shall be permitted only by Conditional Use Permit. • Reference 6.5.4 General Standards in the UDO for comprehensive temporary use regulations. <p>According to discussion with Lake County Health Department staff, either a 'Temporary Food Service Permit' or a 'Seasonal Food Service Permit' must be obtained from the Health Department prior to issuance of a Temporary Use Permit.</p>	<p>Likewise, temporary use permits are essential to support food service operations, such as cottage food production, which is a coinciding trend of the local food movement.</p> <p>Further, temporary use permits are conducive to fostering agricultural tourism, such as corn mazes and pumpkin farms on land used primarily for agriculture. These types of functions have to obtain a temporary use permit, and must have a parking plan and comply with setback rules.</p> <p>The Planning & Building Department is receiving more requests for temporary use permits every year, signaling that it is not a barrier. In addition, the Department recently expanded the number of temporary events from a maximum of 7 per year to 15 per year. The aspect that may pose an adverse land use impact, however, is parking, according to the Department.</p>	
(i) Farmer's markets		
<p>Farmer's markets are classified as "neighborhood-oriented retail sales and service uses," which is an allowed use in all commercial and industrial zoning districts (Promoting Sustainable Building and Development Practices in Lake County (December 2011) Page 76)).</p> <p>Farmers markets require a temporary use permit.</p>	<p>This permitted use in the UDO is significant due to small scale local food producers' dependency on farmer's market sales.</p> <p>According to the survey results, 94.7% local producers sell their food products directly to consumers at farmer's markets and or farm stands. This is the most common method to sell their food goods among all producers surveyed, and many also have Community Supported Agriculture (CSAs) or sell direct to retailers or</p>	<p>Goal: Support direct-to-consumer sales for local food producers in order to bolster the viability of small scale local food producers in Lake County and benefit the local community and economy.</p> <p>Openlands supports having farmers markets allowed in other zoning districts that are not currently permitted (such as institutional zoning districts). Churches, schools and other institutions would be good venues for</p>

ORDINANCE OVERVIEW	EXISTING CONDITIONS & BARRIERS ASSESSMENT	POLICY RECOMMENDATIONS FOR SUSTAINABLE FARMING
	institutions.	farmers markets, as these civic entities are often more accessible to community members.
(E) Temporary Sales		
<p>6.5.13 Temporary Sales</p> <ul style="list-style-type: none"> • 6.5.13.1 Farm Produce Sales (Seasonal): • (a.) Seasonal sales of farm produce may be allowed by Temporary Use Permit in all zoning districts for a period not to exceed 6 months per calendar year. In residential zoning districts, seasonal sale of farm produce shall only be allowed on parcels having a minimum area of 80,000 square feet (2 acres) and a minimum road frontage of 190 feet and further provided that the majority of such produce is grown on-site. [Revised 10.13.09] • (b.) All sales shall be conducted at least 30 feet from all street and public rights-of-way; (c) a minimum of 30 foot setback shall be maintained from property used or zoned for residential purpose. • (see (d) (e) (f) (g) regarding off-street parking, access and avoidance of causing a nuisance. • In residential areas over 2 acres, the "majority" of produce must be grown on-site. <p>In addition:</p> <p>6.5.13.5 Food Sales [Revised 06.13.00]</p> <ul style="list-style-type: none"> • (a) Temporary food stands may be allowed by Temporary Use Permit in 	<p>The UDO is relatively lenient regarding temporary farm produce and food sales by allowing these types of sales in all zoning districts, with some exemptions.</p> <p>Local food producers who want to sell "farm produce" on-site, such as at farm stands, are permitted to by obtaining a Temporary Use Permit from the Lake County Planning & Building Department. Given that most surveyed producers operate farmland in Lake County that is 2 acres or more, this caveat does not appear to pose a barrier.</p> <p>Similarly, the qualification that 'the majority' of produce must be grown-onsite does not create impediments as this allows for supplemental off-site food products to still be sold in non-exempt agricultural areas.</p> <p>This flexibility in the UDO is important for supporting a viable local food system and economy in Lake County because, according to survey results, 94.7% local producers sell their food products directly to consumers at farmer's markets and or farm stands.</p>	<p>Goal: Maintain or improve upon the regulatory status of temporary sales requirements as they appear to be conducive to local food production, preparation, sales and agricultural tourism.</p> <p>The degree to which direct-to-consumer sales can be facilitated by conducive regulations will bolster the viability of a local food economy in Lake County.</p>

ORDINANCE OVERVIEW	EXISTING CONDITIONS & BARRIERS ASSESSMENT	POLICY RECOMMENDATIONS FOR SUSTAINABLE FARMING
<p>the General Commercial (GC) Zoning District for a period not to exceed 6 months per calendar year.</p> <ul style="list-style-type: none"> • (c) All sales shall be conducted at least 30 feet from all public rights-of-way • (d) A minimum 30 foot setback shall be maintained from adjoining property used or zoned for residential purposes • (see (e) (f) (g)) 		

Notes:

Agricultural Supplier Storage and Service Center use standards and regulations specify:

- (6.3.2.1) The use shall be subject to the Site Capacity Calculation/Site Plan Review procedures of Sec. 4.1.
- Site Capacity/Site Plan Review shall be conducted concurrently with any required Conditional Use Permit review.
- (6.3.2.2) The site shall have a minimum area of 200,000 square feet and a minimum lot width of 300 feet.
- (6.3.2.3) The site shall have frontage on and access to a collector or arterial street, provided that the highway authority with jurisdiction over the subject road may approve alternative access.
- (6.3.2.4) All buildings shall be set back at least 30 feet from all lot lines.
- (6.3.2.5) All permanent bulk storage tanks shall be set back at least 150 feet from any street or adjoining property line.
- (6.3.2.6) All trucks, tractors, portable storage tanks, and tailored or motorized agricultural implements shall be screened from view of adjacent streets and residential zoning districts.
- (6.3.2.7) The Conditional Use Permit shall establish reasonable standards to prevent contamination of water resources due to spillage or leakage of chemicals, fuels and other products that are stored on-site. The Conditional Use Permit process shall also consider the possibility of accidental explosion in establishing such standards.

(6.3.2.8) Sales shall be primarily to serve the agricultural community.

Agricultural supplier storage does not appear to be a barrier for local food producers and farmers in Lake County.

However, surveyed local producers do have challenges with the affordability of equipment.

Aside from agricultural-exempt uses, a storage facility would only be permitted by right in the Industrial Zoning Districts, and as a Conditional Use in the General Commercial Zoning District.

Noise and movement of equipment is addressed in the Public Nuisance sub-section.

Matrix II: Public Health & Food Safety Standards

This matrix provides information pertaining to Lake County’s public health and food safety standards and regulations and how they bear on local food service sanitation, processing, preparation and distribution in Lake County. It includes an overview of state statutes and technical information bulletins, implemented by the Illinois Department of Public Health (IDPH) as well as regulations and guidelines contained in the Lake County Board of Health Regulation of Food Service Facilities Ordinance and the Lake County Food Program Administrative Procedures and Policies, which are administered by the Lake County Health Department and Board of Health Regulation. The analysis also evaluates existing conditions and barriers by drawing from additional resources, including the results of a qualitative survey designed to identify barriers to sustainable agriculture and local food production across several stakeholder groups in Lake County as well as an interview with the Lake County Health and Planning, Building, and Development Departments. The third component is a set of recommendations for potential policy change and organizational restructuring that will foster a robust local food system in Lake County.

ORDINANCE OVERVIEW	EXISTING CONDITIONS & BARRIERS ASSESSMENT	POLICY RECOMMENDATIONS FOR SUSTAINABLE FARMING
<p>Public health and food safety standards are regulated at the federal, state and local level. State-level regulations, such as those that relate to food handling and wholesale distribution, are established by law and are interpreted and enforced by the Illinois Department of Health (IDPH). The IDPH also develops and implements technical information bulletins which pertain to food safety. In addition, counties and municipalities in Illinois maintain food safety standards and regulations; in some cases, these regulations are more stringent than state law if municipalities are “home rule.” Lake County is not home rule and upholds the state-level regulations.</p> <p>In addition, the Lake County Health Department operates a Food Protection Program with the goal to reduce the occurrence of food-borne illness and to promote safe food practices within the county. Through this program, the Lake</p>	<p>The term “local food systems” refers to the infrastructure needed to support local food production, including local government policies, programs, and decisions, matching supply and demand, building the local supply-chain (packing, processing, and distribution), as well as preserving farmland. Therefore, Lake County’s health regulations that pertain to food services and sanitation are an important variable in ensuring food safety. They also affect the viability of the local food system in the County.</p> <p>Feedback was collected from Lake County stakeholders about barriers to local food production. Local food producers, including farmers, processors, distributors, and cottage food producers who participated in the survey</p>	<p>At the County Level:</p> <p>Goal: Promote clarity and consistency in the implementation of health-related regulations that relate to the handling and distribution of local food and farm products.</p> <p>Goal: Continue to promote cross-department (Lake County Health Department and Planning & Building Department) cooperation and coordination as it relates to food safety regulations and permitting issues.</p> <p>Goal: Develop local food processing facilities</p>

<p>County Health Department is responsible for permitting, regulating and inspecting over 3,000 food service facilities operating in Lake County. This goal is realized by surveying food operation procedures and by educating food handlers and the public on food safety. Food Safety Checklist: Link</p> <p>The only municipality in Lake County that has its own food protection program is Buffalo Grove. It upholds and enforces the same standards and regulations as that of Lake County Health Department’s Food Protection Program and therefore, the County does not inspect the food facilities in Buffalo Grove.</p>	<p>indicated that public health and food safety standards do not pose a major barrier to their businesses, however, their perspectives vary depending on the respective roles they play in the local food system. Primarily, “local food” constitutes unregulated raw vegetables and fruits, but local food can also imply home-processed cottage foods which are regulated by the Cottage Food Operations Act.</p> <p>In addition, there are various regulatory cross-over issues between Lake County’s Health and Planning & Building Departments, and the two departments work in tandem on these issues to make it an integrative concurrent process as opposed to sequential process. This is a priority in order to promote collaboration and efficiency between the departments and for the sake of the applicant. Overlap issues include nuisance issues, composting farm-related waste, and issuing temporary use permits as it relates to retail food sales.</p>	<p>and food hubs.</p> <p>At the State Level:</p> <p>Goal: Leverage stakeholder support from citizens/legislators/organizations and farmers through education about state-level policy ramifications and engagement in the policy making process.</p> <p>Goal: At the state level, develop tiered regulations to create scale appropriate regulations to address legal and regulatory barriers burdening small scale local food producers.</p> <p>Goal: Increase access to local food for low-income and underserved populations.</p>
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(A) Food Safety and Sanitation Standards

(i) Definitions of Food Types

<p>Generally, food is categorized by Health Departments based on its level of risk of harboring food-borne illness and its</p>	<p>Given that most local food producers and farmers are selling whole vegetables and fruits and not altering or processing food products</p>	<p>Goal: Develop categorizations for local food products in Lake County’s local health regulations and ordinance to provide better</p>
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<p>preparation.</p> <p>The Lake County Health Department defines “Potentially Hazardous Foods” as</p> <p>“any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less.” The guidelines offer a list of potentially hazardous foods. (Cited from Lake County’s Food Safety Guidelines document)</p> <p>Lake County’s definitions of food facilities (Category I, II, & III) correspond with the level of risk of food served (see section).</p>	<p>from their farm, they are exempt from these regulations.</p> <p>However, local food producers that do process or prepare food products by “adding-value” to the raw product and then distribute them need to comply with the specified state and/or local regulations for sanitary purposes and to minimize risk of food-related health hazards.</p> <p>Lake County does not have an official definition of “local food” or “local food and farm products,” however; it does not appear to pose a problem for local food producers who typically produce fresh, uncut, and unprocessed produce.</p> <p>The County has also developed Food Safety Guidelines to provide an educational approach to reduce the risk of food-borne illness at food service facilities in Lake County. These guidelines comply with the standards set by the Illinois Department of Public Health (IDPH) Food Service Sanitation Code (1998), the Lake County Board of Health Regulation of Food Service Facilities Ordinance and the Lake County Food Program Administrative Procedures and Policies.</p>	<p>clarity regarding what types of local food products are exempt from regulations and which value-added food products are not exempt.</p> <p>Although most “local food” products are whole vegetables and fruits and are thereby exempt from regulations, there are types of processed local foods, such as aquaculture, that are not categorized. This can cause confusion and create potential barriers for local food entrepreneurs.</p>
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(B) Food Permits

(i) Permits for Commercial Kitchens

Lake County Food Plan Review

The Lake County Health Department oversees the Food Plan Review and Permit process. The 2012 Food Plan Review Information Packet details the process and regulatory requirements for Lake County residents and food services businesses to build and operate a certified **commercial kitchen**. The information packet specifies the requirements for permit applications, which includes: a complete set of floor plans, menu and facility type information, equipment layout and description, plumbing diagram (plumbing must meet Illinois State Plumbing Code), manager certification, certification for food service sanitation, and sanitation equipment and supply list. If the proposed food operation includes reduced oxygen packaging, smoked products (meat, poultry, etc.) the applicant must contact the Lake County Health Department regarding Hazard Analysis Critical Control Point (HACCP) Program requirements.

Before submitting this application to the health

The Lake County Food Plan Review and Permit process, which applies to permitting of commercial kitchens, appears to be complicated, but not necessarily a barrier to local food producers.

Obtaining approval for commercial kitchens is another regulatory cross-over issue between the health and planning departments as applicants who are applying for a food plan permit first need to comply with zoning procedures. For instance, before an applicant submits an application to the health department (applicants living in unincorporated areas would contact the Lake County Health Department and applicants living in a municipality of the County would contact their local health department) the applicant needs to contact the respective planning and building department in their unincorporated or municipal area of Lake County. The planning department then reviews the facility food plan based on regulations laid out in the local zoning ordinance and/or Unified Development Ordinance. Depending on zoning stipulations, the planning department will either approve or deny the permit for the commercial kitchen. If

Goal: Continue to promote cross-departmental coordination between the health and planning departments during review of food plans and commercial kitchens.

Goal: Promote cooperative arrangements between commercial kitchen operators and local food producers to share commercial kitchen space.

For instance, the Lake County Health Department could play a role in facilitating cooperative partnerships between restaurant operators and local food producers to allow the producers to access the restaurant's commercial kitchen space during non-business hours. This is a win-win arrangement as local restaurants can potentially gain new income from sharing their commercial kitchen space and farmers can utilize the kitchens' refrigeration, clean hot and cold running water, and food processing equipment for a greatly reduced cost than purchasing and owning these resources themselves.

department, the applicant must first receive approval from the planning department regarding zoning considerations. In the food plan application, he/she must indicate what type of food service facility and construction in order to apply for the appropriate permit. For instance, there are new construction and new food service permits, new food service permit without a remodel, remodel with an existing food service permit, etc.

This process also includes an assessment fee based on the type of facility. Type I facilities include: smaller retail facilities or facilities that only serve beverages or prepackaged foods; Type II facilities, include institutions like schools and food service with seating; Type III facilities, include larger retail food service facilities; and seasonal facilities, include only carry-out facilities.

Finally, the 2012 Food Plan Information Packet stipulates construction provisions, such as approved water supply and certain plumbing fixtures that comply with the Illinois State Plumbing Code. For residents or businesses that use a private well, a non-community water well permit and a satisfactory water sample must be obtained. Proper sewage connection or properly sized septic system also must be approved.

the applicant gets approval, the applicant will proceed with submitting an application to the local or County health department per the stipulations in the 2012 Food Plan Review Information Packet.

To facilitate this process, the Lake County Health Department and the Planning and Building Department will hold joint meetings for these types of permit inquiries in unincorporated Lake County. The departments call this step "early assistance meetings" which are at no cost to applicants. This high level of coordination between the departments helps to provide clarity to the applicant of the various zoning and health requirements and increases the efficiency of the process.

As it applies to local food producers and processors, there are various requirements that must be met, including construction provisions and certification for sanitation compliance.

The zoning procedures seem to be more restrictive than the health requirements, because in certain instances when residents apply to build a commercial kitchen on their residential property, there are zoning constraints that can impede this process.

If these applicants meet requirements, the municipal or Lake County Health Department, depending on where the applicant lives, conducts an inspection as the final requirement for food plan approval. Depending on the outcome, the applicant can move forward with building and operating a commercial kitchen after receiving proper permits.

From a public health and safety perspective, commercial kitchen operators also have to meet standards related to plumbing and water supply considerations. This can potentially pose a problem if applicants are on a private well and cannot obtain a non-community water well permit, which is a requirement. They may also face problems if they have unsatisfactory water samples; they also have to get approval regarding their waste water disposal and have their septic systems inspected and approved by the applicable health department.

Due to these types of constraints, there are only a very small number of individuals in unincorporated Lake County who have acquired permits and operate a commercial kitchen in their residence. However, there are many examples of commercial kitchens in non-residences, such as restaurants, schools, and other institutions that are able to meet the requirements and obtain the required permits.

Moreover, the Lake County Health Department and Planning and Building Department work collaboratively to facilitate this process to reduce barriers to residents and businesses interested in building and operating commercial kitchens.

(ii) Permits for Temporary Food Service Events

- Given that the Lake County Health Department is responsible for implementing food protection and safety standards, permitting is an important aspect of this function. The most common permit that the County Health Department issues is for "general food service" (Section FP-104.0) for retail food distribution.
- The primary permits that apply to local food producers are **Permits for Temporary Food Service Events** (Section VI of Lake County's Food Program Administrative Procedures and Policies) and certification pertaining to cottage food operation.

Permits for Temporary Food Service Events :

- All temporary food service event (TFE) permit applications are evaluated and the permits/events are categorized by risk.
- All foods served at a temporary food service event must be from an approved source and shall be prepared either on-site, or at a licensed foodservice facility. The use of home prepared or hermetically sealed food which has been processed in a place other than a wholesale food processing establishment is prohibited per the Illinois Department of Public Health Food Service Sanitation Code 1998, Section 750.100. Additionally, any potentially hazardous foods that are restricted by Section 750.1610 may only be served when no

- The Lake County Health Department only regulates retail food distribution whereas the Illinois Department of Public Health regulates wholesale food distribution.
- For instance, a dining facility in Lake County can make their own marinara sauce and sell it retail at their store, which would fall under the County's jurisdiction. However, if the same vendor were to sell the marinara product wholesale, the vendor would be regulated by the state regulations and would have to process the product in an Illinois Department of Public Health inspected facility.

Temporary Food Service Permits:

- Local food producers that sell their food products, including whole vegetables, at a temporary food service event must obtain a 'Temporary Food Service Permit' or a 'Seasonal Food Service Permit' from the Lake County Health Department and a separate permit from the Planning and Building Department.
- Despite this multi-step process, based on survey feedback, local food producers do not indicate problems with this particular permitting process. This is likely a function of the high degree of coordination between the two departments to make it a concurrent rather than sequential permitting process to increase efficiency and functionality. Additionally this may be the result of a low volume of these requests at present date, although there could be more interest in these permits in the future as the

At the County Level:

Goal: Continue to foster cross-departmental coordination (between the Lake County Health Department and Planning & Building Department) on cross-over regulatory issues.

Their cross-departmental coordination, such as for issuing permits related to temporary food service events, should be utilized for other issues and could potentially be applied as a best practice to other counties.

Goal: Facilitate permitting for new sustainable local farming practices, like aquaponics.

If a commercial fishing license is required for local aqua culturists to sell fish they raise at a farmers' market that will create barriers to their business. It is worthwhile to research the potential impacts of permitting regulations as these types of new farming practices continue to grow in the region.

health hazard will result.

Permits and licenses for selling certain food products at farmers’ markets:

- Meat & Poultry Products: Anyone who sells meat or poultry products at a farmers’ market is required to obtain a meat and poultry broker’s license issued by the IDOA. Vendors at farmers’ markets must meet any additional relevant requirements found in the Food Service Sanitation Code (77 Ill. Adm. Code 750) and/or local food ordinance if applicable.
- Fish: A commercial fishing license is required for anyone selling or distributing fish at a farmers’ market.

Cottage Food:

- In addition, cottage food producers must register their operation with the Lake County Health Department prior to selling any home-prepared foods at farmers’ markets. Under the Cottage Food Operation Act, in order to prepare and sell food, cottage food producers must obtain an Illinois Department of Public Health (IDPH) food service sanitation manager certificate by completing a state approved 15 hour course and passing the examination. There are fees associated with the certification training courses and to obtain the IDPH - issued certificate.

industry grows.

- This particular permit does not apply to local farmers who sell their whole vegetables at their farm stand or a local farmers market.
- A large portion of temporary food service events permits that the Lake County Health Department issues are for vendors associated with licensed restaurants; the Department will not issue permits for concession stand vendors unless they are associated with licensed facilities because they do not know how the food is stored, handled, and if it is safe for public distribution and consumption.

Farmers’ Market Licensing

- The Technical Information Bulletin Food #30 indicates that vendors who sell fish at farmers markets in Illinois need commercial fishing licenses. It is unclear whether aquaculturists would need a commercial fishing license in order to sell their fish at farmers markets or for other retail distribution. Given that aquaponics, a sustainable food production system that combines aquaculture (raising fish in tanks) with hydroponics (cultivating plants in water) in a sympiotic environment, is a growing local sustainable farming practice, this licensing issue is something that warrants further investigation.

Cottage Food and permitting:

- There are currently three cottage food producers that are registered in Lake County. It is unclear whether this is a function of the limitations built into the state certification and local registration

At the State Level:

Goal: Facilitate better communication between the Illinois Department of Public Health and local health departments. Given that Lake County is not home rule, there do not appear to be issues regarding discrepancies in the regulations that the County implements compared to state laws.

	<p>process or whether people are not aware of the opportunity. The Lake County Health Department has not had many more inquiries than there are registered cottage food producers.</p> <ul style="list-style-type: none"> Although the state legislation, the Cottage Food Operation Act, allows counties to charge a fee to cottage food producers that register, none of the counties in northeastern Illinois charge a fee. This should make the registration more feasible for small-scale cottage food producers who generate limited revenue through their retail sales. 	
(C) Food Processing		
(i) Federal & State Food Processing Laws		
<p>Federal Laws:</p> <ul style="list-style-type: none"> Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et seq.), Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 et seq.), Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 et seq.). <p>Illinois Laws:</p> <ul style="list-style-type: none"> <u>Illinois Food, Drug and Cosmetic Act</u> (410 ILCS 620) <u>Sanitary Food Preparation Act</u> (410 ILCS 650) <u>Food Safety Transportation Act</u> (410 ILCS 630) <u>The Manufacturing, Processing, Packing or Holding of Food</u> (77 Ill. Adm. Code 730) <u>Processors of Fresh and Smoked Fish</u> (77 Ill. Adm. Code 735) <u>Processors of Cacao Products and Confectionery</u> (77 Ill. Adm. Code 738) 	<p>These Federal statutes include provisions that stipulate government inspection as part of USDA’s Food Safety and Inspection Service (FSIS) regulatory program designed to protect the health and welfare of consumers by preventing the distribution of meat, poultry, and egg products that are unwholesome, otherwise adulterated, or misbranded (21 U.S.C. 451, 455, 602-606, 1031, and 1034).</p> <p>These state statutes govern food processing and sanitation in Illinois. Given that most local food producers and farmers are not altering or processing food products from their farm, like whole vegetables and fruits, they are exempt</p>	<p>Goal: Address state-level food safety and health regulations through a tiered approach so that regulations are scale appropriate for small-scale local farms and processing facilities. Regulations should be based on benchmarks that are risk-based and focused on traceability.</p> <p>For instance, laws like (HB 4494) Small Businesses & Pasteurized Milk that was introduced in 2012 should be pursued again to set a precedent for tiered regulations that will support the viability of small scale local food processors.</p> <p>Local food advocates should research and examine the likelihood of food-borne illness</p>

<ul style="list-style-type: none"> • <u>Sanitary Vending of Food and Beverages</u> (77 Ill. Adm. Code 743) 	<p>from these regulations.</p> <p>With regards to local food processing, regulations can in certain cases pose barriers to small-scale operations as required equipment can often be cost-prohibitive. This, in turn, creates business impediments and limits the viability of small scale local food processors and producers. Because state laws regulate food processing, this is an issue that needs to be addressed at the state level.</p>	<p>between food products produced in small versus large scale operations to determine proper scales of regulation. (Look at IL Honey Production Act as a good model to adopt).</p>
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(ii) Food Processing Requirements

<p>At the Federal level:</p> <p>Under the federal inspection acts, the Food Safety and Inspection Service (FSIS), the public health agency in the USDA, inspects all meat and poultry sold in interstate and foreign commerce, including imported products. FSIS also monitors <i>state</i> inspection programs.</p> <p>At the State and Local level:</p> <p><i>State</i> inspection programs are required by law to be <i>at least equal to</i> the Federal inspection program. The Illinois Department of Agriculture’s Bureau of Meat and Poultry Inspection is responsible for administration of the Meat and Poultry Inspection Act in Illinois to protect consumers in relation to proper processing, packaging, labeling and advertisement of meat and poultry products. Inspection coverage encompasses all aspects of</p>	<p>As indicated, there are multiple agencies that are involved in food safety inspection and licensing to ensure that foods are safely processed in Illinois. The USDA’s Food Safety and Inspection Service (FSIS), the Illinois Department of Public Health and the Illinois Department of Agriculture each play a major role in this process.</p> <p>Given that most local food producers and farmers are not altering or processing food products from their farm, like whole vegetables and fruits, they are typically exempt from these regulations.</p> <p>However, local food producers that do process meats or poultry products, or prepare food products by “adding-value” to the raw product</p>	<p>Goal: Address state-level food safety and health regulations through a tiered approach so that regulations are scale appropriate for small-scale local farms and processing facilities. Regulations should be based on benchmarks that are risk-based and focused on traceability.</p> <p>Goal: Foster better coordination between the Illinois Department of Public Health and local health departments.</p> <p>Technical information bulletins are considered guidance documents that are developed by the Illinois Department of Public Health (IDPH) with input from a Food Safety Advisory Committee, to guide local health departments on the intent and meaning of existing food safety statues because the statues themselves typically contain very little in the way of specifics. Technical information bulletins (TIBs)</p>
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intrastate slaughter and processing to the retail level. In 2011, the Bureau provided slaughter and/or processing inspection for 279 Illinois establishments and exempt poultry raisers. The Bureau also licensed and inspects 506 Meat and Poultry Brokers, who are defined as any person or entity on commission who is engaged in the business of buying, negotiating handling, or selling meat or poultry products.

General food processing requirements:

- Hand washing is required when produce or any food item is sliced, cut or prepared on-site or off-site, therefore, hand washing facilities must be provided (Technical Information Bulletin/Food #30).

Each food product intended for retail sale or distribution has certain processing regulations that apply to it. The food products that are required to be prepared in a facility that has been inspected by the Illinois Department of Public Health, include:

- **Baked goods**
- **Cut Fruits and Vegetables** (These produce products shall be prepared and handled in accordance with the temporary food service section of the Illinois Food Service Sanitation Code (77 Ill. Adm. Code 750) sections 750.1600 through 750.1700.)
- **Milk and Cheese Products**
- **Ice cream** (Products must be pasteurized,

and then distribute them, such as at farmers markets, need to comply with the specified federal, state and/or local regulations for sanitary purposes and to minimize risk of food-related health hazards.

For instance, local food producers who raise livestock to produce meat and poultry products do face restrictive regulations due to federal laws regarding meat and poultry inspection.

With regards to local food processing, regulations can in certain cases pose barriers to small-scale operations as required equipment can often be cost-prohibitive. This, in turn, creates business impediments and limits the viability of small scale local food processors and producers. Because state laws regulate food processing, this is an issue that needs to be addressed at the state level.

One important example is small businesses that have to comply with pasteurization regulations, which requires high-cost equipment. In an effort to address this issue in Illinois, local food advocates pressed for legislation in 2012, which became (HB 4494) IDPH Rules: Small Businesses & Pasteurized Milk sponsored by Representative Maria

regarding food sales at farmers markets (TIB Food #30) and cottage food production (TIB Food #44) do not currently require a public input process as they are not promulgated through an official administrative rules process. If these guidelines were to go through the Joint Committee on Administrative Rules, there would be more opportunity for public comment. This poses issues as these technical information bulletins can be arbitrary.

Further, these regulatory guidelines can become convoluted at the local level as they are not all inclusive. For instance, local, city, or county food ordinances may exercise Home Rule and prescribe further regulations in addition to the technical information bulletins' (TIB) guidelines, which often causes confusion for local food producers who want to sell their food products. The exception is the Cottage Food Operations Act and technical information bulletin (Food #44), because unlike other food safety statutes, the cottage food law is very specific and trumps home rule authority; the law does allow some variability regarding registration of local cottage food producers, namely allowing local jurisdictions to charge registration fees. [*facts confirmed with Wes King, Illinois Stewardship Alliance*]

Lake County does not exercise Home Rule in unincorporated areas of the County and upholds the regulatory guidelines of the farmers market TIB (Food #30) and cottage food operation TIB (Food #44), but some other

<p>processed and packaged in a licensed dairy plant. Raw milk cheeses may be sold if made in a licensed dairy plant and aged over 60 days. Title 21 Code of Federal Regulations (CFR) Part 133 addresses those standardized cheeses that are permitted to be manufactured if it complies with the aforementioned stipulations.)</p> <ul style="list-style-type: none"> • Herbs: (Chopped, blended, packaged or otherwise processed herbs) • Honey (Comb-honey is exempt from regulatory oversight, but extracted honey must originate from an inspected facility and must follow labeling requirements. Beehives must be inspected by the Illinois Department of Agriculture.(Source: P.A. 96-1028, eff. 1-1-11.) • Apple Cider and other fruit and/or vegetable juices (Juice HACCP regulations must be followed if sold wholesale. Apple cider packaged or in a container, must be treated to achieve a 5-log reduction of pathogens or show a warning statement on the label about potential harmful bacteria.) • Garlic-in-oil (It must be processed in an inspected, commercial processing plant where it has been acidified to certain specifications. It is frequently contaminated with <i>Clostridium botulinum</i> spores and has been implicated in several food borne outbreaks.) • Pickles, Relishes, Salsas, and other canned items (All canning and preserving shall be done in an inspected facility, <u>and home canning is not allowed</u>. The facility shall be inspected by IDPH and the inspector shall verify the sources of ingredients and compliances of Title 21 Code of Federal Regulations Part 113 and 114. Additionally, the canning process must 	<p>Berrios. It pushed to amend the Grade A Pasteurized Milk and Milk Products Act to provide that by a certain date, the Department of Public Health would adopt rules to allow small businesses to comply with the provisions of the Act without requiring cost-prohibitive equipment. This bill was introduced in reaction to the IL Department of Public Health shutting down an organic local artisan Ice Cream maker who was operating at the Logan Square Community Kitchen.</p> <p>This legislation was referred to the Human Services Committee and then re-referred to the Rules Committee, where the legislation ultimately died.</p> <p>This legislative initiative demonstrates problems with regulations that are not scale appropriate and the need to develop tiered regulations.</p>	<p>counties in Illinois do apply more stringent regulations. For instance, the farmers market TIB discusses hand-washing stations and prescribes a simple three bucket sink set-up, which Lake County accepts as protocol, but Champaign County requires pressurized water. Another example is that eggs and cheese are supposed to be kept at a certain temperature, which Lake County upholds, but other counties require mechanical refrigeration.</p> <p>Based on this evaluation, technical information bulletins pertaining to local food processing and distribution are useful in providing guidelines for these operations, but can cause confusion at the local level in local jurisdictions that exercise Home Rule. This does not apply to Lake County.</p>
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be inspected and approved by the IDPH or relevant regulatory authority in another state.

- **Shell Eggs:** An egg license issued by the IDOA is required for anyone who transports and sells eggs anywhere off the farm site where they were produced. For more information, see the Illinois Egg and Egg Products Act.
- **Meats and Poultry:** These meat products are regulated by the IDOA, Bureau of Meat and Poultry Inspection. Meat products and poultry products must be derived from livestock or poultry which were slaughtered under IDOA or USDA inspection.
- **Fish** (Fish is required to be processed in an inspected facility using a HACCP plan required in Title 21 Code of Federal Regulations Part 123.)
- **Canned or preserved goods** (These types of goods must be made in an inspected facility, and comply with Section 750.11(f) of the Illinois Food service Sanitation Code (77 Ill. Adm. Code 750).

(D) Food Service & Distribution Standards

(i) Federal Interstate Commerce Laws

<p>The 1967 and 1968 Meat and Poultry Inspection Acts limit interstate distribution and sale of state-inspected meat and poultry products. Under these federal inspection acts, the Food Safety and Inspection Service (FSIS), the public health agency in the USDA, inspects all meat and poultry sold in interstate and foreign commerce, including imported products. FSIS also monitors <i>state</i> inspection programs, however, due to federal laws, these meat and poultry products are only allowed to be sold within the <i>state</i> in which they were produced.</p>	<p>This federal restriction on interstate distribution of state-inspected meat and poultry products decreases the viability of small local food meat and poultry processors to compete in the marketplace.</p> <p>In 2011, the USDA's FSIS announced a new program, the cooperative interstate shipment program, to expand interstate commerce of state-inspected meat and poultry products. This effectively broadened the market for small-scale processing plants. The final rule, detailed in the 2008 Farm Bill, states that state-inspected establishments with 25 or fewer employees will be eligible to participate in a voluntary cooperative interstate shipment program, which would allow these establishments to distribute meat and poultry products across state lines if they bear an official USDA mark of inspection. State-inspected facilities that are interested in participating in this new program can apply, and if selected to participate in the program, they have to comply with all federal standards under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). The economic benefits of participating in the cooperative interstate shipment program are attractive to local food producers and processors who could expand their market access and potential income; participation can also lead to economic multiplier effects in local communities through increased local tax revenue and job creation.</p>	<p>Goal: Identify state-inspected meat and poultry processing facilities in Lake County and foster their participation in the cooperative interstate shipment program to broaden market opportunities for small-scale processing facilities.</p>
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(ii) Wholesale Food Distribution Standards

Three primary laws regulate Illinois food distribution, including:

The Illinois Food, Drug and Cosmetic Act

- Under title 77, Chapter One, Section 720.40 the regulations pertaining to foods distributed in Illinois require that all packaged foods must have labels identifying all ingredients and additives. The foods exempt from this labeling act are received in bulk containers, but the seller must display these foods in the same condition labeled as bulk food bins. Whole, unaltered vegetables and fruits are exempt from labeling requirements unless processed in some way.

Food Safety Transportation Act

- Administrative public health code 410-ILCS 630 called the Food Safety Transportation Act provides minimum standards for the safety and sanitary transportation of food goods. As stated in Section (e), "This Act shall not apply to the transportation of raw agricultural commodities by the producer from the producer's own agricultural, horticultural, or livestock raising operation to the first point of delivery." (Source: P.A. 86-1335.)

These state-level regulations apply to Illinois food distributors, and therefore, apply to retail and wholesale distributors, respectively, in Lake County, including local food producers and artisans. However, unprocessed whole fruits and vegetables are exempt from these regulations.

Local food artisans do have to comply with Technical Information Bulletin Food #30 that stipulates certain processing requirements for food products sold at farmers' markets (See *section C, ii, of this matrix for specific details*).

Local food producers, such as cottage food producers, who do process food have to, by definition, only process and prepare "low risk" food (See *Cottage Food Operation Act*).

Overall, the laws that regulate food distribution do not appear to pose barriers to local food producers and artisans.

Goal: Anticipate how the growing local food system and economy in Lake County will be impacted by wholesale food distribution standards.

For instance, it would be valuable to evaluate how the potential creation of regional local food hubs in the future would impact food distribution regulations. As the law stands, it appears that a local farmer who wants to package and sell his products to a food hub would be regulated under wholesale distribution regulations which may have unforeseen impacts, such as requiring certifications or additional licensing.

Food Handling Regulation Enforcement Act

- Administrative public health code 410-ILCS 625 called the Food Handling Regulation Enforcement Act stipulates regulations for business enterprises selling food products pertaining to food handling. It also includes a section regarding farmers markets (410 ILCS 625/3.3) and food distribution requirements outlined in Technical Information Bulletin Food #30.

These additional regulations bear on food distribution in Illinois:

- Good Samaritan Food Donor Act (745 ILCS 50)
- Hearth Baked Bread Act (410 ILCS 640)
- Sanitary Food Preparation Act (410 ILCS 650)
- Food Service Sanitation Code (77 Ill. Adm. Code 750)
- Retail Food Store Sanitation Code (77 Ill. Adm. Code 760)
- Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)

(iii) County Standards for Food Service Facilities

Lake County Board of Health Ordinance, Article III, Regulation of Food Service Facilities: Section FP103.0 prescribes definitions and guidelines on types of food service facilities.

- The County’s Hazard Analysis Critical Control Point (HAACP) Program is a comprehensive food safety control plan which includes a step-by-step description of the food processing, packaging and storage procedures including identification of critical control points (CCPS); the food contact surface cleaning and sanitizing procedures; lot identification procedures and training procedures.
- Types of facilities (FP 103.7) include:
- CATEGORY I: means a food service facility where:
 1. Only pre-packaged potentially hazardous foods are available or served; and/or,
 2. Potentially hazardous foods are commercially pre-packaged in an approved processing facility; and/or,
 3. Milk is the only potentially hazardous food.
- CATEGORY II: means a food service facility where the facility meets one or more of these criteria:
 1. Preparing foods for service from raw ingredients that do not require assembly.
 2. Hot or cold holding is restricted to same day service.
 3. Foods requiring preparation are obtained (canned, frozen, fresh prepared) from approved processing facilities (i.e. frozen pizza, entrees,

The categories are based on the risk presented by the type of food (how likely it is to readily allow the growth of pathogens), and how it is being prepared (for example, no cooking or preparation, cooked for immediate service, cooked and held, cooked/cooled/reheated). These categories pertain to food prepared for retail sale, but do not, with some exceptions, pertain to foods that are prepared/processed/packaged and sold wholesale. The Lake County Health Department regulates retail sale, but wholesale producers are regulated by the Illinois Department of Public Health.

Therefore, for local food producers and processors that sell their products retails would not be affected by these risk categories. Potentially hazardous foods do not include whole produce (vegetables and fruit) so it does not affect sales of these farm products, however, farmers who have livestock on their farms may face more issues.

Cottage food operators, by definition, are allowed to only produce and sell low-risk, non-potentially hazardous or unsafe, food products.

Goal: Maintain County food safety regulations for retail food sales as they do not appear to pose a barrier to local food producers, who typically produce low-risk food products.

etc.)

- CATEGORY III: means a food service facility where the facility meets one or more of these criteria:
 1. Preparing and holding hot or cold food more than 12 hours before serving.
 2. Handling of raw ingredients and hand contact with ready-to-eat foods.
 3. Reheating potentially hazardous foods which have been previously cooked and cooled.
 4. Preparing food for off-site service (where time-temperature requirements during transportation, holding and service are a factor).
 5. Vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level.
 6. Serving of immune-compromised individuals (where these individuals comprise the majority of the consuming population).

(iv) Standards for Retail Food Distribution at Farmers Markets & Outdoor Food Sales Events

<p>The Illinois Department of Public Health, Office of Health Protection Division of Food, Drugs and Dairies established the Technical Information Bulletin (TIB) Food #30 to address sanitation guidelines for farmers' markets and other outdoor food sales events. The TIB became effective May 1st, 2010.</p> <p>This TIB provides regulatory guidelines for foods often found at farmers' markets and other food events. It also provides information regarding some of the risks involved with various foods often distributed at farmers' markets and similar venues, and contains basic guidance regarding safe transportation, delivery and display of foods.</p> <p>Permits/Licenses: Operators of stands and concession who wish to sell products other than fresh, uncut, unprocessed produce must contact each local health department, in this case the Lake County Health Department, to obtain specific requirements including necessary inspections, food permits or licenses. Fresh, whole, uncut, unprocessed produce, as implied in the Farm Products and Marketing Act, is exempt from inspections and licensing fees.</p> <ul style="list-style-type: none"> • Foods allowed for sale or distribution at 	<p>Local food producers and artisans do have to comply with Technical Information Bulletin Food #30 that stipulates certain processing and distribution requirements for food products sold at farmers' markets (<i>See section C, ii, of this matrix for specific details</i>).</p> <p>However, given that a significant amount of local food that is sold is unprocessed whole foods, the regulations in this TIB do not restrict their sale or distribution at farmers markets.</p> <p>If operators of stands and concessions were to sell food products other than fresh, uncut, unprocessed produce would likely have to obtain a temporary food service permit from the Lake County Department of Health.</p> <p>Overall, the laws that regulate food distribution do not appear to pose barriers to local food producers and artisans.</p> <p>Local cottage food producers, who do process food have to, by definition, only process and prepare "low risk" food. "Cottage food operation" means a person who produces or packages non-potentially hazardous food in a kitchen of that person's primary domestic residence for direct sale by the owner or a</p>	<p>Goal: Promote retail sales of local food products at local farmers' markets to generate local economic activity and support the viability of the local food economy.</p> <p>The Lake County Health Department is supportive of the ability of local food vendors to sell their food products at local farmers' markets and do not require additional permitting, except in cases where temporary food service permits apply.</p>
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<p>farmers' markets with no restrictions (per the Farm Products Marketing Act), include: raw agricultural products, popcorn, grains, seeds, beans, nuts, and fresh and dried herb sprigs.</p> <ul style="list-style-type: none"> • Foods allowed for sale or distribution at farmers' markets with certain restrictions, include: baked goods, if they are prepared in an inspected facility, cut fruits and vegetables, milk and cheese products, ice cream, herbs, honey, maple syrup, wild and cultivated mushrooms, apple cider and other fruit and/or vegetable juices, herb vinegars, garlic-in-oil, pickles, relishes, salsas, and other canned items, shell eggs, meats and poultry, fish, other food products assessed on an individual basis by the local or state health department (<i>See section C, ii for processing specifications</i>). • Foods prohibited from sale or distribution includes: raw milk or any dairy products made with raw milk, home-butchered meat, poultry, or wild game animals, home-canned foods, home vacuum-packaged products, sandwiches prepared at home, ice-cream (made in an uninspected facility). 	<p>family member, stored in the residence where the food is made. (410 ILCS 625/4)</p> <p>The Cottage Food Operation Act (Public Act 097-0393), only allows certain cottage foods to be prepared in private home kitchens and these goods can be sold <i>only at an Illinois farmers' markets</i>.</p>	
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(D) Cottage Food Operation Standards

<p>The Cottage Food Operation Act (Public Act 097-0393), became effective on January 1, 2012 in Illinois and allows certain cottage foods to be prepared in private home kitchens to be sold <i>only at an Illinois farmers' markets</i>. The Illinois Department of Public Health also developed Technical Information Bulletin Food/#40.</p> <ul style="list-style-type: none"> • "Cottage food operation" means a person who produces or packages non-potentially 	<p>The Cottage Food Operation Act has created new opportunities for farmers and local food artisans to engage in value-added processing while also fostering entrepreneurship for local vendors interested in starting new local food businesses and selling at one of Illinois' 300-plus farmers markets.</p>	<p>Goal: Promote the viability of cottage food production and sales in Lake County by fostering the registration process.</p> <p>The Lake County Health Department plays an important role by fielding inquiries from County residents about the registration process and</p>
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<p>hazardous food in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member, stored in the residence where the food is made. (410 ILCS 625/4)</p> <ul style="list-style-type: none"> • "Farmers markets" mean "common facility or area where farmers gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products, directly to consumers." The foods that can be prepared for sale at farmers' markets are limited to selected non-potentially hazardous foods, which are foods that, even without refrigeration, will not support the growth of germs that can make people sick. • Certification & Registration: Prior to selling any home-prepared foods at farmers' markets, cottage food producers must: <ol style="list-style-type: none"> 1. Obtain an Illinois Department of Public Health (IDPH) food service sanitation manager certificate 2. Select a food item to prepare and sell that meets the requirements of the Cottage Food Operation Act, as outlined above. 3. Develop and produce a product label. 4. Prepare a placard to be displayed prominently at the point of sale that states the following: <i>"This product was produced in a home kitchen not subject to public health inspection that may also process food allergens."</i> 5. Register their operation with Lake County Health Department by completing an Application for Cottage Food Operation registration form. 	<p>The law, which went into effect January 1st, 2012, marked an important step in supporting the local food movement in Illinois by allowing local food producers to prepare eligible non-potentially hazardous food products in their home kitchens that can be sold at farmers markets. This allows cottage food producers to avoid prohibitive expenses in building a commercial kitchen and creates scale appropriate laws for small-sized producers.</p> <p>There are currently three cottage food producers that are registered in Lake County. Although the law has only been in effect for less than a year, it is unclear whether this small number is a function of the limitations built into the state certification and local registration process or whether local residents are not aware of the opportunity. The Lake County Health Department has not had many more inquiries than there are registered cottage food producers.</p> <p>Although the state legislation, the Cottage Food Operation Act, allows counties to charge a fee to cottage food producers that register, none of the counties in northeastern Illinois charge a fee. This should make the registration more feasible for small-scale cottage food producers who generate limited revenue through their</p>	<p>being a resource to the community of cottage food producers. The Health Department could further support the growth of the cottage food industry in Lake County if it were to take a more proactive role by promoting and educating residents about opportunities to produce and sell cottage food.</p> <p>One effective approach that the Lake County Health Department could take would be to launch a proactive educational campaign targeted toward beginning farmers and local food processors and entrepreneurs. The campaign could raise awareness about local food farming, processing, and distribution opportunities that are in compliance with regulations to reduce perceived regulatory barriers.</p> <p>Although it is understandable as to why there is a constrained list of edible, low-risk cottage food products for public health and safety reasons, it is still limiting of the types of sustainably grown and processed local cottage food products that could be prepared and sold otherwise.</p>
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6. Do not exceed gross receipts of \$25,000 in a calendar year.

The food products that can be made in a private home kitchen and sold *only at farmers' markets* are:

- Selected fruit-based jams, jellies and preserves
- Certain fruit butters
- Baked goods, such as breads, cookies, cakes, pastries, high-acid fruit pies
- Dried herbs, dried herb blends, or dry tea blends

The product must be tested by a commercial laboratory and documented to be non-potentially hazardous (at the owner's expense), and the results must be submitted with the registration form.

Food items that cannot be prepared or sold by a Cottage Food Operation includes pumpkin pie, sweet potato pie, cheesecake, custard pies and cream pies as well as pastries with potentially hazardous fillings or toppings. Other food products not allowed are pumpkin, banana, and pear butters as well as rhubarb, tomato, pepper and watermelon jellies or jams.

retail sales.

This is a great new opportunity for local food entrepreneurs, and although there is a cap on the gross receipts of \$25,000, that is still a substantial amount of income that is eligible to be raised through cottage food sales and is an important element in supporting a viable local food economy in Lake County and throughout the state.

Matrix III: Environmental Policies

This matrix provides information pertaining to Lake County’s environmental regulations and how they bear on local food production in Lake County, including an overview of local, state, and federal regulations relevant to this topic, existing environmental and agricultural conditions, and recommendations for potential policy change and organizational restructuring that will foster expansion of sustainable local food production which protects the health of environmental resources in Lake County. This analysis draws from various resources, including the Unified Development Ordinance (UDO), the Watershed Development Ordinance (WDO), data from the McHenry-Lake County Soil and Water Conservation District, state statutes, as well as the results of a qualitative survey designed to identify barriers to sustainable agriculture across several stakeholder groups in Lake County.

ORDINANCE OVERVIEW	EXISTING CONDITIONS & BARRIERS ASSESSMENT	POLICY RECOMMENDATIONS FOR SUSTAINABLE FARMING
<p>The Environmental matrix assesses regulations pertaining to environmental protections that influence agricultural practices as well as baseline standards of practice that relate to conservation and sustainability measures. The matrix focuses on regulations that pertain to unincorporated Lake County and does not review municipal regulations.</p> <p>There is still further research needed to discern how these regulations pertaining to environmental resources and agricultural practices differ if the agricultural use is on public or private land.</p>	<p>The existing conditions assessment attempted to analyze the implications of environmentally-focused regulations on agricultural uses and on environmental resources protection. For instance, the existing conditions consider the on and off-farm impacts, such when chemicals runoff the farm and flow downstream impacting water quality and aquatic life. Overall, it analyzed the impact of sustainable farming operations versus conventional farming.</p>	<p>The goals and recommendations seek to protect environmental resources, such as by identifying best practices for sustainable agriculture and by setting targets for water quality standards to monitor and control the runoff of chemical use.</p>
(A) Soil Assessment & Management		
<p><u>Soil Survey of Lake County</u></p> <p>-The survey recommends establishing grassed waterways or erosion-control structures in order to reduce the hazard of erosion.</p> <p>-The survey recommends leaving the soil surface rough with crop residue and this will result in good tilth.</p>	<p>According to the Soil Survey, the major soil management concerns for cropland in the County include, “water erosion, poor tilth, crusting, wetness, ponding, restricted permeability, excessive permeability, and root-restrictive layers.”</p>	<p>Goal: Promote sound and proactive soil assessment and management measures.</p> <p>Recommendation: Use land assessment mechanisms, such as GIS, to identify land parcels that are most suitable for sustainable agricultural production. If the soils are highly erodible, agricultural operations should be avoided or must use best practices in soil erosion and sediment</p>

ORDINANCE OVERVIEW	EXISTING CONDITIONS & BARRIERS ASSESSMENT	POLICY RECOMMENDATIONS FOR SUSTAINABLE FARMING
<p>- Leaving crop residue on the surface after planting can also increase the rate of water infiltration and reduce the runoff rate.</p> <p>-Applications of fertilizer should be based on the results of soil tests. (pg. 216)</p> <p><u>Lake County Watershed Development Ordinance (WDO)</u></p> <p>-“Soil erosion and sediment control related measures are required to be constructed and maintained for any land disturbance activity permitted under Article IV, Section A. The following requirements shall be met:</p> <p> a) Soil disturbance shall be conducted in such a manner as to minimize erosion.</p> <p> b) Properties and channels adjoining development sites shall be protected from erosion and sedimentation.</p> <p> c) Disturbed areas shall be stabilized with temporary or permanent measures within 14 calendar days following the end of active hydrologic disturbance.</p> <p> d) Land disturbance activities in streams shall be avoided, where possible.</p> <p> e) Soil erosion and sediment control measures shall be appropriate with regard to the amount of tributary drainage area.</p> <p> f) All storm sewers that are or will be functioning during construction shall be protected by an appropriate sediment control measure.</p> <p> g) Stormwater conveyance channels, including ditches, swales, and diversions,</p>		<p>control and environmental management. Top soil loss should also be monitored and mitigated, especially if drainage is discharging into a sensitive stream or water body.</p> <p>Recommendation: The drainage area should be assessed and stormwater best management practices, such as the use of green infrastructure, should be used to reduce soil erosion and control sediment to protect the water quality of the receiving water body or stream in that drainage area. These stormwater best management practices will also help protect aquatic life. Further, these measures will prevent potential flooding if farming is occurring in more urbanized areas of the County.</p>

ORDINANCE OVERVIEW	EXISTING CONDITIONS & BARRIERS ASSESSMENT	POLICY RECOMMENDATIONS FOR SUSTAINABLE FARMING
and the outlet of all channels and pipes, shall be designed and constructed to withstand the expected flow velocity from the 10-year frequency storm without erosion."		
(B) Chemical Use		
<p><u>IEPA</u></p> <p>As of October 2011, IEPA requires a NPDES permit for operators who discharge to waters of the State from the application of biological pesticides or chemical pesticides that leave a residue, when the pesticide application is for one of the following pesticide use patterns:</p> <p style="padding-left: 40px;">-Mosquito and Other Insect Pest Control; Weed and Algae Pest Control; Animal Pest Control; Forested Area Pest Control; and Other Pest Control Activities</p> <p><u>Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)</u></p> <p>According to the US EPA, "pesticides are regulated under FIFRA until they are disposed, after which they are regulated under the <u>Resource Conservation and Recovery Act (RCRA)</u> which ensures responsible management of hazardous and nonhazardous waste. Some, but not all, pesticides are regulated as hazardous waste when disposed. The Department of Transportation (DOT) regulates the transport of hazardous materials. Some, but not all, pesticides are regulated as DOT</p>	<p>According to the Natural Resource Defense Council (NRDC), most pesticides contain potentially toxic chemicals that can have negative environmental impacts. Pesticides can migrate into lakes and streams when it rains. When fertilizers enter a body of water, they can cause oxygen levels to drop, killing aquatic life and posing risks to other species.</p> <p>Phosphorus lost from agricultural soil can increase eutrophication in nearby waters. Problems associated with increased eutrophication include alga blooms reducing the oxygen content of the water, possibly killing fish or harming wildlife. (Virginia State University)</p> <p>Since many state household hazardous waste programs prohibit farmers from participating, most states have developed programs specifically for farmers, often referred to as "Clean Sweep" programs.</p> <p>The difficulty of tracing chemicals from agricultural uses is problematic as it makes it challenging to monitor and regulate chemical applications on farmland.</p> <p>Leaky Underground Storage Tanks:</p> <p>In addition to runoff of chemicals from farmland</p>	<p>Goal: Promote sound management of chemical applications (insecticide, pesticide, etc.) on farmland by fostering sustainable agricultural practices which do not use chemicals to grow food products.</p> <p>Potential Recommendation:</p> <ul style="list-style-type: none"> • Performance requirements; • Potential guidelines for best management practices • Advocate for appropriate applications by setting policy targets and enforcing through water monitoring; if you find presence of it, indicator that not meeting objective. • Balance of conventional and sustainable farming for land management (consider external costs; health objectives, etc.) • At the National Level: The Federal Government wants to see if conventional farmers need to meet conservation value standards in order to be eligible for Federal Funding. This is an issue that will be addressed in the 2012 Farm Bill.

ORDINANCE OVERVIEW	EXISTING CONDITIONS & BARRIERS ASSESSMENT	POLICY RECOMMENDATIONS FOR SUSTAINABLE FARMING
<p>hazardous materials while in commerce.”</p> <p>Certification and training regulations require pesticide applicators to meet certain training requirements before they apply pesticides labeled "for restricted use."</p> <p>Under the <u>Food, Drug, and Cosmetic Act (FDCA)</u>, a raw agricultural product is deemed unsafe if it contains a pesticide residue, unless the residue is within the limits of a tolerance established by EPA or is exempt from the requirement. The FDCA requires EPA to establish these residue tolerances.</p>	<p>to streams and water bodies, soil contaminations from chemicals that infiltrate or are already below the ground surface are also an issue that local food growers need to consider. Leaky Underground Storage Tanks (LUST) can be difficult to map and trace the degree of contamination of soils underground. Lake County local food growers and farmers should be aware of the potential for soil contamination from these sources.</p>	
(C) Composting		
<p>The State governs compost under the Illinois Pollution Control Act. The regulations for composting differ for the variable uses. In agricultural-exempt areas, any agricultural waste produced on-site can be composted if it stays on-site, but off-site waste is prohibited from being transferred and mixed with compost waste from another site.</p> <p>Transfer of compost is considered an Industrial Use since it is an intensive use.</p> <p>Landscape waste composting requires a conditional use permit:</p> <p>In the UDO, landscape waste composting is qualified as “wood-chipping, mulching and grinding activity, and wholesale sales of landscape-related bulk materials shall be allowed as an accessory use only if</p>	<p>Composting regulations are restrictive, but they do not necessarily appear to pose a barrier to local food producers in Lake County. Since local food producers can still compost their own agricultural waste on-site, and do not appear to require additional nutrient application (?).</p> <p>Composting appears to be a potential public nuisance issues in residential zones in Lake County, but there have not been many reported issues between residential local food growers and their neighbors.</p>	<p>Goal: Facilitate agricultural waste composting to enhance sustainable agricultural practices and minimize agricultural landfill waste.</p> <p>Openlands recommends reevaluating regulations (per Policy 4.8.3), to assess whether they may pose a significant barrier to composting.</p> <p>Openlands endorses the City of Chicago’s composting ordinance that exempts small-scale compost operations, such as those found in residential backyards, from composting regulations as long as they are well-managed. It could be a transferable approach to regulating small-scale composting in Lake County.</p> <p>Reference Lake County Strategic Plan: <i>“Consider evaluating and implementing long-</i></p>

ORDINANCE OVERVIEW	EXISTING CONDITIONS & BARRIERS ASSESSMENT	POLICY RECOMMENDATIONS FOR SUSTAINABLE FARMING
<p>expressly approved as part of the Conditional Use Permit application. Noise abatement measures for any permitted mulching, chipping or grinding activity shall be addressed as part of the Conditional Use Permit. (i) 6.3.27.9 [Revised 03.11.08]</p> <p>In Lake County, there is one known exception for a very large farm (over 500 acres) that is exempt and allowed to process manure on-site with landscape waste brought from off-site, and the byproduct can be shipped off-site for final use or applied to the farmland there.</p>		<p><i>term solutions for increasing waste diversion through recycling and composting, reducing the toxicity of our waste, and developing a long-term disposal option that has a positive impact on energy usage, reducing key pollutants and greenhouse gases.*</i></p>
(D) Stormwater Management and Soil Erosion Control		
<p>Lake County's Comprehensive Plan includes a Watershed Development Ordinance (WDO), which sets forth the minimum requirements for the stormwater management aspects of development in Lake County. Agricultural uses are exempt from the WDO, but there are instances in which new agricultural uses are affected by the WDO, which will be explained further in the next column.</p> <p>The WDO stipulates that minimum standards are consistently and uniformly enforced throughout the County, but communities may enact standards beyond those stipulated in the Ordinance. The WDO also has a companion document, the Technical Reference Manual (TRM), which includes design guidance for the WDO's provisions.</p> <p>The WDO permitting process regulates new</p>	<p>Lake County has worked proactively to address stormwater management from a county-wide and inter-jurisdictional perspective. In 1990, the Lake County Comprehensive Stormwater Management Plan was completed to provide a guiding framework for coordinating stormwater management activities across the County; the Comprehensive Plan has since been updated in 2002. The Stormwater Management Commission (SMC) is the authorized agency that oversees stormwater management in Lake County and administers community services toward the primary goal of flood damage reduction and surface water quality improvement. In addition, the SMC manages Lake County's floodplains and watersheds and focuses on natural resource protection by restoring and enhancing natural drainage systems.</p> <p>Lake County's Watershed Development</p>	<p>Goal: Promote soil erosion control measures and expand the use of best management practices on farmland to reduce drainage issues and soil loss.</p> <p>The Soil Survey of Lake County report (2002) offers recommendations for sustainable soil-erosion control measures, such as structural practices like conservation tillage, also known as no-till farming, ridge planting, and crop rotation, which includes one or more years of close-grown grasses or legumes, also helps with erosion and soil management. Grassed waterways also help to reduce soil loss.</p> <p>Furthermore, agriculture is not always considered a 'sustainable' land use where it occurs on highly erodible soils or is not conducted in accord with best management</p>

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<p>development including government projects, residential, commercial and industrial development, public roads as well as some home additions and the redevelopment of existing sites. The typical development requiring a WDO permit includes: The project is in a floodplain or a flood prone area; the project may impact a wetland; the project will disturb more than 5,000 sq. ft. of soil; or the project will hydro logically modify site drainage. The WDO permit does not apply to agriculturally zoned land in Lake County; typically farms do not have extensive infrastructure and impervious surfaces, such as roads and large buildings that impact stormwater drainage that the WDO regulates.</p> <p>In addition, the Lake County Unified Development Ordinance (UDO) requires a soil erosion and sediment control plan appropriated for each proposed development in unincorporated Lake County. These control measures are designed to prevent soil from leaving a site; to protect adjacent properties, wetlands, and streams from the accumulation of sediment from construction sites, and to prevent tracking of dirt and mud onto roadways. A control plan is required for site plans where soil disturbance is likely to occur, such as for larger developments or environmentally sensitive sites. Erosion control measures include silt fencing, sediment traps, diversion ditches, rock check dams, and filter basins. (Cite) The Lake County Department of Planning,</p>	<p>Ordinance (WDO) and its stipulated rules and regulations are important to the effective management of stormwater in the County, which is an issue that bears on all stakeholders, both regulated and not, by protecting against flooding. The Ordinance and UDO's requirement for soil erosion and sediment control for new developments are important to the preservation of top soil and management of stormwater runoff.</p> <p>With respect to its impact on agricultural uses, agriculturally zoned land is exempt from the WDO. This exemption also applies to wetlands on agriculturally zoned and farmed land. The premise is that if the land is currently zoned as agriculture and farmed, farmers may utilize agricultural practices as they see fit. For instance, if a farmer wanted to install a drainage tile on his agriculturally zoned land, he could and this would not trigger WDO regulations pertaining to wetlands protection.</p> <p>However, if a Lake County resident had land that was not already zoned as agricultural land, but wanted to farm it, the resident would first have to rezone their land at which point wetlands would be assessed on the property. If it was deemed that any existing wetlands were not "farmed wetlands" (had been farmed in within the past 5 years), the resident would have to avoid impacts to the wetland from farming.</p> <p>For example, there was a scenario in Zion, in which a landowner who owned a lot that was zoned industrial wanted to farm it. Because the site had not been developed, there were</p>	<p>practices. Therefore, best management practices for soil-erosion control should be used on farmland.</p>

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<p>Building, and Development agency oversees site development permit requirements to ensure soil erosion and sediment control throughout the county.</p> <p>Likewise, Lake County’s site development permit requirements for soil erosion and sediment control as stated in the UDO does not apply to agriculturally zoned land. Farmers typically maintain stable soil conditions by using cover crops and other methods to minimize erosion.</p>	<p>shrubbery and wetland swales on the property. As a result, the landowner was not allowed to impact the wetlands with farming practices since the land was not zoned as agricultural land.</p> <p>Another hypothetical example that could apply is if a Lake County resident who lived in a residential district and wanted to convert a certain amount of acreage of their property into agriculture would have to apply for a variance to rezone their land and then avoid impacts to wetlands when they started to farm the land.</p>	
(E) Irrigation		
<p>Lake County receives its water from three main sources: Lake Michigan, shallow aquifers, and deep aquifers. See <i>RFP</i>, Figure 4.4. According to the 2008 Report, <i>The State of Lake County’s Water Supply, Executive Summary</i>, the Lake Michigan water service area covers 195 square miles (41% of the County’s area), and encompasses approximately 70% of the county’s population. There are 37 Lake Michigan water allocation permits, which include 26 municipal systems, five non-municipal systems, and six commercial, industrial and institutional systems. In 2010, the Illinois Department of Natural Resources <u>approved Lake Michigan allocations for ten additional Lake County communities</u>: Antioch, Fox Lake, Lake Villa, Lake Zurich, Lindenhurst, Long Grove, Volo, Wauconda, and Lake County (unincorporated areas of Fox Lake Hills and Grandwood Park.)</p>	<p>Lake County is geographically well positioned in the Chicago region to be able to source much of their water from Lake Michigan.</p> <p>Areas in Lake County that do not receive Lake Michigan water rely on groundwater aquifers. More than 80% of Lake County’s groundwater supply is drawn from shallow aquifers. Only a small portion of the population relies on deep aquifers. While deep aquifers are less susceptible to contamination from surface sources such as road deicing salt and unsealed or abandoned wells, this deep “legacy” water refreshes (replenishes) very slowly, and can have naturally occurring water quality issues, such as radium, barium, salinity and total dissolved solids (TDS). Radium levels above the primary drinking water standard occur throughout Lake County.</p> <p>Water demand and availability concerns will increasingly become important in Lake County</p>	<p>Goal: Promote water conservation measures to protect Lake County’s water supply and enable long-term sustainable farming practices.</p> <p>The Lake County Board has begun to implement water conservation measures. As a foundation, it endorsed the <i>CMAQ Water 2050: Northeastern Illinois Water Supply / Demand Plan Report</i>, which defined eight goals:</p> <ul style="list-style-type: none"> • Ensure water demand and supply result in equitable availability through drought and non-drought conditions alike. • Protect the quality of ground and surface-water supplies. • Provide sufficient water availability to sustain aquatic ecosystems and economic development. • Inform the people of northeastern

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<p>Due to the Lake Michigan diversion and Supreme Court Consent Decree, there is a limit on the number of Lake Michigan allocations that can be granted to communities in close proximity to Lake Michigan.</p>	<p>and throughout the northwest Chicago region based on a reliance on shallow aquifers. Agricultural irrigation will also be dependent on the availability of safe and abundant water supplies.</p>	<p>Illinois about the importance of water-resource stewardship.</p> <ul style="list-style-type: none"> • Manage withdrawals from water sources to protect long-term productive yields. • Foster intergovernmental communication for water conservation and planning. • Meet data collection needs so as to continue informed and effective water supply planning. • Improve integration of land use and water use planning and management.
(i) Wells		
<p><u>Lake County Health Department Ordinances:</u></p> <p>No new wells that are being constructed or existing wells that are being remodeled may connect to or share with an existing water well that already serves an existing dwelling. [WW-105.0 Existing Wells]</p> <p>The approval of the Health Officer is needed before a water well is constructed, deepened, or sealed or before a closed loop well is constructed. In order to construct a closed loop well, the individual needs to be accredited by the International Ground Source Heat Pump Association. [WW-401.1 General]</p> <p>If there is a community water system available, the permit to construct a water well will be refused. An exception to this</p>	<p>Based on a review of the regulations pertaining to wells in Lake County, there appear to be some potential issues, such as with maintaining a sustainable water supply. For instance, if there are no limitations on how much water an individual water well owner can pump, the water table may be drawn too low and adverse impacts can arise.</p> <p>With respect to installing wells on small plots of land, if set-backs can be met, there are no zoning restrictions that prevent wells from being installed on non-exempt agricultural land (parcel under 4.59 acres). However, depending on set-backs and the orientation of the small parcel, there could be potential challenges to meet the requirements for the minimum lateral distance and property boundaries restrictions. In this case, there is the opportunity to apply for a variance.</p>	<p>Goal: Promote sustainable usage of well water to prevent draw downs of shallow aquifers.</p> <p>Goal: Promote safe drinking water standards and irrigation water through environmental protections.</p>

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<p>restriction includes the water well being used for irrigation or other non-potable purposes. [WW-403.0 Restrictions]</p> <p>Water wells must be located within the boundaries if the serviced property and the minimum lateral distance restrictions must also be within the property boundaries. [WW-403.2 Property Boundaries]</p> <p>The Health Department requires a minimum lateral distance from a sealed well to possible contamination sites, including 25 feet to a proposed individual sewage disposal system soil absorption area, 10 feet to a proposed septic tank, 5 feet to a proposed sewer line, and 10 feet to a storm sewer. [WW-403.5.1 Sealed Wells]</p> <p>Shared-wells are usually prohibited but may be permitted if a variance request is approved and all legal documents are in order. [WW-403.3.1 Conditions Allowing Approval of Shared Water Wells]</p> <p>If approval by the Health Officer is required by this Ordinance but is denied, requesting a variance is an option if compliance with the Ordinance is impossible or impractical. [WW-601.1 Variance Requests]</p> <p><u>Water Use Act of 1983</u></p> <p>If a person is to construct a high capacity well (capable of pumping 100,000 gallons per day), that person must notify the District.</p> <p>If a person is responsible for a point of</p>	<p>There do appear to be issues with old wells and leachate in Lake County which could impact sustainable local farming. Abandoned wells are a concern because they are a direct conduit to the groundwater and are considered by law to be a potential route of contamination. The IL Water Well Construction Code requires them to be sealed or put back into use (though extensions to keep wells unused can be granted, but the Lake County Health Department (LCHD) does monitor them). Leachate from open and closed landfills is monitored by LCHD's solid waste staff by routinely sampling selected private water wells in these areas.</p> <p>There are also important considerations with respect to joint action and the ability to irrigate off of a municipal water supply. Community water suppliers are required to have conservation plans in place and all of them can and do place restrictions on outdoor use when it is warranted. The cost also is a factor. Therefore, irrigation for agricultural use can be subject to these restrictions on outdoor use which could pose a potential issue, especially for large scale agriculture. However, it is important to maintain water conservation plans and to monitor municipal water usage to sustainably manage Lake County's water supply.</p> <p>Regarding water supply management, it is important to sustainably manage the County's shallow and deep aquifer wells. Agricultural uses are dependent on water, and large scale</p>	

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<p>withdrawal from a high capacity well, a high capacity intake, or a public water supply, then that person must participate in the Illinois State Water Survey's Illinois Water Inventory Program. However, those who are responsible for high-capacity wells or intakes used for agricultural irrigation do not need to participate in the Inventory Program for the first five years after the effective date of this amendatory act (2009-2010, 96th General Assembly).</p> <p><u>Illinois Water Well Construction Code (415 ILCS 30)</u></p> <p>Abandoned wells must be sealed within 30 days of abandonment.</p> <p><u>Illinois Water Well Construction Code (77 ILCS 920)</u></p> <p>A variance can be requested and approved if location conditions exist at the proposed well installation site that precludes compliance with the IL Water Well Construction Code. These conditions may include a proposed well being too close to buildings, septic tanks, sewer lines, or barnyards.</p> <p><u>Lake County Water Supply Advisory Committee</u></p> <p>According to the Advisory Committee, individual water systems are not monitored and a homeowner can construct a water well and pump as much water as they</p>	<p>agriculture uses a vast amount of water. Currently, there are no enforced reporting requirements for agricultural water use. Therefore, it is important to consider best practices in water conservation to enhance the sustainability of farming practices.</p> <p>With respect to regulations, Illinois has perhaps the most liberal water use law in the country ("reasonable use," meaning that it is prohibited to pump water to waste or maliciously). For further information, reference the Illinois Water Use Act (http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1743&ChapterID=44). There are some emergency use restrictions, but the collar counties are exempt. There is a conflict resolution section (Sec. 5) that would apply here, and reporting requirements for high capacity wells and intakes (Sec. 5.3), but the reporting requirements for agricultural use do not go into effect until 2015.</p> <p>Farmers can also supplement their irrigation with water from on-site stormwater detention basins. The Stormwater Management Commission promotes this as a way to mitigate stormwater runoff and sustainably use water.</p> <p>According to the Illinois State Water Survey, Lake County is among the only counties in Illinois that irrigates from surface water.</p>	

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<p>choose. [September 2010]</p> <p><u>Ordinances/Statutes used:</u></p> <ul style="list-style-type: none"> -Lake County Board of Health Ordinances (Article XV) -IL Water Use Act of 1983 (525 ILCS 45) -IL Water Well Construction Code (77 Ill. Adm. Code 920) -IL Water Well Construction Code (415 ILCS 30) -IL Public Water Supply Regulation Act (415 ILCS 40) -Lake County Water Supply Advisory Committee Documents 		