

SENATE No. 495

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to food justice with jobs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/8/2021</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>3/10/2021</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>3/25/2021</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>4/1/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>4/29/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>5/12/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>8/13/2021</i>
<i>Lydia Edwards</i>	<i>First Suffolk and Middlesex</i>	<i>1/31/2022</i>

SENATE No. 495

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 495) of Joseph A. Boncore, Adrian C. Madaro, James B. Eldridge, Marc R. Pacheco and other members of the General Court for legislation to create a Garden Agriculture Program. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to food justice with jobs.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws, as so appearing, are hereby amended by inserting after
2 chapter 128C the following new chapter:-

3 Chapter 128D: Local Garden Agriculture Program

4 Section 1: As used in this section, the following words shall have the following
5 meanings, unless the context clearly requires otherwise:

6 “Chemical fertilizer”, any chemical compound of synthetic origin applied to soil or to a
7 plant to supply the plant with nutrients.

8 “Chemical herbicide”, any chemical compound of synthetic origin applied to plants,
9 crops, or soil which is designed, used, or intended to kill or inhibit the growth of unwanted plants
10 or fungi.

“Chemical pesticide”, any chemical compound of synthetic origin applied to plants, crops, or soil which is designed, used, or intended to kill pests that can damage crops or interfere with agricultural production, including insects, birds, rodents, or any other type of animal.

“Commissioner”, the commissioner of the Massachusetts Department of Agricultural Resources

“Division”, the Agriculture Jobs Division

“Garden Agriculture Program”, the cumulative entirety of any and all rules, regulations, contracts, plans, projects, expenditures, and activities completed by the division in order to award Garden Agriculture Grants to recipients, including, but not limited to, designing the Garden Agriculture Grant Application, reviewing Garden Agriculture Grant Applications which have been submitted by Garden Agriculture Grant Applicants, awarding Garden Agriculture Grants, hiring Technical Assistance Experts, and monitoring and enforcing compliance with the provisions of this chapter.

“Garden Agriculture Program”, a program to: (i) enable Massachusetts residents to establish small-scale food gardens; (ii) localize food production to reduce the carbon emissions created by buying food produced out of state; and (iii) increase Massachusetts residents’ access to locally-grown food with high nutritional value.

“Garden Agriculture Grant”, a delivery, from the Agriculture Jobs Division to a Garden Agriculture Grant Recipient, of items, tools, resources, seeds, instructional guides, and other goods specified in Section 5 of this chapter.

“Garden Agriculture Grant Application”, an application to receive a Garden Agriculture Grant.

“Garden Agriculture Grant Applicant”, an individual who submits a Garden Agriculture Grant Application.

“Garden Agriculture Grant Recipient”, an individual who receives a Garden Agriculture Grant.

Section 2. The division shall create the Garden Agriculture Program.

Section 3. (a) The division shall create an application called the Garden Agriculture Grant Application with which individuals can apply for a Garden Agriculture Grant. The division and its agents and employees shall refer to the Garden Agriculture Grant Application as such.

(b) The Garden Agriculture Grant Application shall require applicants to: (i) provide their name; (ii) provide their address; (iii) provide their cumulative family adjusted gross income; (iv) identify which of the following gardening items they would like to receive as part as part of the grant from a list of but not limited to, a trowel; a spade; a pair of pruners; soil; mulch; and organic fertilizer; (v) identify which types of seeds they would like to receive as part of the grant, choosing from a list of available seed types which shall be listed on the Garden Agriculture Grant Application; (vi) indicate whether they would like to receive one raised garden bed or two raised garden beds as part of the grant; (vii) identify the dimensions that they would like the raised garden bed or beds to have, choosing from a list of available dimensions which shall be listed on the Garden Agriculture Grant Application; (viii) indicate whether they would like to receive any other tools, equipment, resources, or items listed on the Garden Agriculture Grant Application, which the commissioner has deemed appropriate to list on the Garden Agriculture

Grant Application, provided that it is reasonable to believe that including those tools, equipment, resources, or items on the Garden Agriculture Grant Application would improve the Garden Agriculture Program; and (ix) provide any other information the commissioner deems appropriate for determining whether to award the applicant a Garden Agriculture Grant.

(c) The Garden Agriculture Grant Application shall include: (i) a brief description of the purposes of the Garden Agriculture Grants; (ii) a description of the restrictions, legal duties, and obligations that accompany the receipt of a Garden Agriculture Grant, including, but not limited to, the requirements provided in Section 7 of this chapter; (iii) a space for the applicant to sign and date the application; and (iv) a clearly worded statement advising potential applicants that by signing, dating, and submitting a Garden Agriculture Grant Application, they are agreeing to abide by and comply with the restrictions, legal duties, and legal obligations that accompany receipt of a Garden Agriculture Grant.

(d) The Garden Agriculture Grant Application shall be easily accessible on the website of the division. Applicants shall be given the option of submitting their Garden Agriculture Grant Application electronically on the website of the division. Visitors to the website of the division shall be able to download and print as many copies of the Garden Agriculture Grant Application as they wish. The division shall also allow applicants to easily and conveniently submit non-electronic, paper versions of the Garden Agriculture Grant Application.

(e) The Garden Agriculture Grant Application shall be available in English and in any other language spoken by at least 10 percent of the Massachusetts population.

(f) The division shall only approve a Garden Agriculture Grant Application if it intends to provide the Garden Agriculture Grant Applicant with a Garden Agriculture Grant.

Section 4. The division shall, at all times, prioritize Garden Agriculture Grant Applications submitted by Garden Agriculture Grant Applicants with lower annual, cumulative household adjusted gross income over Garden Agriculture Grant Applicants with higher annual, cumulative household adjusted gross income.

Section 5. (a) A Garden Agriculture Grant shall consist of: (i) all of the items requested by the applicant pursuant to Section 3(b)(iv) of this chapter; (ii) all of the seeds requested by the applicant pursuant Section 3(b)(v) of this chapter, in a quantity equal to no less than 200 seeds divided by the number of types of seeds the applicant requested; (iii) any raised garden bed or raised garden beds requested by the applicant, pursuant to Section 3(b)(vi) and Section 3(b)(vii) of this chapter, provided that no applicant shall receive more than two raised garden beds; (iv) any additional items requested by the applicant, pursuant to Section 3(b)(viii) of this chapter; (v) organic fertilizer; (vi) mulch and soil; (vii) assistance assembling and setting up any raised garden bed which was included in the Garden Agriculture Grant; (viii) assistance setting up any pest control cage included in the Garden Agriculture Grant; (ix) an accessible instructional guide for how to plant, grow, and harvest the types of plants associated with the seeds the applicant requested, pursuant to Section 3(b)(v) of this chapter, in English and in any other language spoken by at least 10 percent of the Massachusetts population; and (x) any other item or items which the commissioner determines should be included in all Garden Agriculture Grants.

(b) Any raised garden bed delivered to any applicant as part of a Garden Agriculture Grant shall have a built-in pest-control cage or shall arrive with a separately installable pest-control cage.

Section 6. (a) No later than 2 weeks after approving a Garden Agriculture Application, the division shall notify the applicant that their application was approved, either by mail, electronic mail, or by telephone.

(b) After approving a Garden Agriculture Application, the division shall deliver the Garden Agriculture Grant to the applicant, to arrive no later than 2 months after the application was approved.

Section 7. (a) Every Garden Agriculture Grant Recipient is prohibited from using chemical pesticides.

(b) Every Garden Agriculture Grant Recipient is prohibited from using chemical herbicides.

(c) Every Garden Agriculture Grant Recipient is prohibited from using chemical fertilizer.

(d) Every Garden Agriculture Grant Recipient is prohibited from selling, trading, or otherwise alienating any of the items, seeds, tools, equipment, or raised garden bed that they received as part of their Garden Agriculture Grant.

Section 8. (a) The division shall hire at least one Technical Assistance Expert as full time employee to receive and resolve questions from Garden Agriculture Grant Recipients, related to optimal, effective, or proper agricultural practices.

(b) Technical Assistance Experts must speak both English and any other language spoken by at least 10 percent of the Massachusetts population.

(c) Technical Assistance Experts must have experience practicing agricultural gardening without the use of chemical fertilizers, chemical pesticides, or chemical herbicides.

(d) Technical Assistance Experts must be qualified to answer questions that Garden Agriculture Grant Recipients could reasonably be expected to have as they set up their gardens, plant seeds, and grow and harvest plants.

(e) Technical Assistance Experts must receive an annual salary that is not less than 140 percent of the statewide per capita income, as calculated by the United States Census Bureau.

(f) Technical Assistance Experts must receive health insurance, dental insurance, at least two weeks of paid vacation time, and at least one paid sick day off of work for every 20 days in which they work more than 6 hours.

SECTION 2: The General Laws are hereby amended by inserting after chapter 128D the following chapter:-

Chapter 128E: Community Agriculture Gardens Program

Section 1. As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

“Commissioner”, the commissioner of the Massachusetts Department of Agricultural Resources.

“Community Agriculture Program”, the cumulative entirety of any and all rules, regulations, contracts, plans, projects, expenditures, and activities completed by the bureau to award Community Agriculture Grants to individuals including, but not limited to: (i) creating a Community Agriculture Grant Application; (ii) reviewing Community Agriculture Grant

137 Applications; (iii) assisting Community Agriculture Cooperatives with establishing a bank
138 account; assisting Community Agriculture Cooperatives with incorporation; (iv) depositing
139 funds into a Community Agriculture Cooperative bank account; assisting Community
140 Agriculture Cooperatives with holding free and fair elections to select individuals to serve on
141 their first Board of Directors; (v) developing Community Agriculture Standards; and monitoring
142 and enforcing the provisions of this chapter.

143 “Community Agriculture Standards”, a comprehensive list of agricultural practices for
144 Members of Community Agriculture Cooperatives

145 “Community Agriculture Grant”, a one-time financial grant, disbursed by the division,
146 directly to the bank account of a Community Agriculture Cooperative

147 “Community Agriculture Grant Application”, an application to receive a Community
148 Agriculture Grant.

149 “Community Agriculture Cooperative”, a nonprofit corporation, incorporated in
150 commonwealth, established to acquire land, real property, and other property in fee simple, and
151 to use that land, real property, and other property for the purpose of agricultural production for
152 the benefit of the corporation’s members.

153 “Division”, the Agriculture Jobs Division

154 “Nonprofit corporation”, a nonprofit corporation as defined in formed for a purpose
155 specified in Section 4 of Chapter 180

156 “Members”, the members of a Community Agriculture Cooperative, possessing all the
157 duties and privileges attached to membership in a nonprofit corporations under the general laws

158 “Board of Directors”, the Board of Directors of any Community Agriculture Cooperative

159 “Director”, any individual acting as a Director on the Board of Directors of a Community
160 Agriculture Cooperative

161 “Community Garden”, a site of agricultural production owned and managed by a
162 Community Agriculture Cooperative on behalf of its members. A Community Garden may
163 include real estate, farming equipment, greenhouses, buildings for indoor agriculture, and any
164 other items, structures, land, or property that are appropriate to facilitate agricultural production.

165 “Community food”, food produced in a Community Garden

166 “Geographic membership area”, a geographically contiguous area that includes at least
167 400 permanent residents

168 “Permanent resident of a geographic membership area”, any individual whose primary
169 domicile is in a geographic membership area. Any individual who regularly sleeps no less than
170 100 nights per year within the geographic membership area are considered a permanent resident
171 of that geographic membership area, regardless of whether they have a legal address within the
172 geographic membership area.

173 “Linked”, the formal legal relationship that is established between a Community
174 Agriculture Grant Application and a Community Agriculture Cooperative under the following
175 circumstances: when a Community Agriculture Grant Application is approved, and a Community
176 Agriculture Cooperative is created to receive the funds from the Community Agriculture Grant,
177 then that Community Agriculture Grant Application and that Community Agriculture
178 Cooperative are “Linked.”

179 “Treasurer”, the Treasurer of a Community Agriculture Cooperative, chosen by that
180 corporation’s Board of Directors

181 “Census tract”, a geographic region identified as and referred to as such by the United
182 States Census Bureau

183 “Secret ballot”, a ballot in which the votes cast are secret and every voter’s choice is
184 anonymous.

185 “Technical Assistance Experts”, individuals with direct experience with agricultural
186 production that does not rely on chemical fertilizers, chemical pesticides, or chemical herbicides,
187 and may have direct experience with indoor agricultural production.

188 “Chemical fertilizer”, any chemical compound of synthetic origin applied to soil or to a
189 plant to supply the plant with nutrients.

190 “Chemical herbicide”, any chemical compound of synthetic origin applied to plants,
191 crops, or soil which is designed, used, or intended to kill or inhibit the growth of unwanted plants
192 or fungi.

193 “Chemical pesticide”, any chemical compound of synthetic origin applied to plants,
194 crops, or soil which is designed, used, or intended to kill pests that can damage crops or interfere
195 with agricultural production, including insects, birds, rodents, or any other type of animal.

196 “Feasible and appropriate”, includes (i) physically and biologically possible, as
197 determined by the commissioner; (ii) economically viable, as determined by the commissioner;
198 and (iii) ecologically advantageous, as determined by the commissioner, including, but not
199 limited to, improving soil health, sequestering carbon, increasing biodiversity, protecting natural

habitats, protecting the health of pollinators, and any other aspect of ecological sustainability deemed important by the commissioner.

“Minor violation”, any violation of any provision of this chapter that is not considered a major violation.

“Major violation”, any of the following violations: (i) any activity or pattern of behavior engaged in by any director or group of directors that leads the commissioner to conclude, beyond a reasonable doubt, that the Board of Directors of a Community Agriculture Cooperative is attempting to transfer money received from a Community Agriculture Grant to a member or members of that Community Agriculture Cooperative for personal use that is not primarily intended to benefit the members of that Community Agriculture Cooperative, as a whole; (ii) any activity or pattern of behavior engaged in by any director or group of directors that leads the commissioner to conclude, beyond a reasonable doubt, that the Board of Directors of a Community Agriculture Cooperative is not intending or attempting to grow community food; (iii) any activity or pattern of behavior engaged in by any director or group of directors that leads the commissioner to conclude, beyond a reasonable doubt, that a director or group of directors are attempting to deliberately exclude some members of the Community Agriculture Cooperative from receiving any of the benefits of membership in the Community Agriculture Cooperative, including, but not limited to, the right to participate in elections to select individuals to serve on the Board of Directors; and (iv) any activity or pattern of behavior engaged in by any director or group of directors that leads the commissioner to conclude, beyond a reasonable doubt, that the Board of Directors is encouraging or permitting community food to be grown in violation of the community agriculture standards.

Section 2. The division shall create the Community Agriculture Program. The purposes of said program shall be to: (i) enable Massachusetts residents to establish community gardens; and (ii) increase Massachusetts residents' access to locally-grown food with high nutritional value.

Section 3. All permanent residents of a geographic membership area specified in the Community Agriculture Grant Application, pursuant to Section 8(c)(iii) of this chapter, shall be members of the Community Agriculture Cooperative to which that Community Agriculture Grant Application is linked.

Section 4. (a) A Community Agriculture Cooperative may receive funds from a Community Agriculture Grant; private donations from any source; private grants from any source; and are subject to state and municipal appropriation or subdivision thereof.

(b) A Community Agriculture Cooperative may spend money in the following ways: (i) to purchase land or real property in fee simple, and any appurtenances to that land, with which to establish a Community Garden to produce community food; (ii) to compensate a real estate agent, real estate broker, or any other individual to locate land, real property, appurtenances, buildings, or other structures that may be appropriate for the Community Agriculture Cooperative to purchase; (iii) to compensate a real estate agent, real estate broker, lawyer, legal expert, or any other individual to assist the Community Agriculture Cooperative in purchasing land, real property, appurtenances, buildings, or other structures in fee simple; (iv) to purchase, construct, or install buildings, greenhouses, raised garden beds, or any other structures that will be used to facilitate the production of community food on a Community Garden; (v) to purchase items, tools, or equipment that will be used to facilitate the production of community food on a

Community Garden, including, but not limited to, gardening tools, seeds, non-chemical fertilizer, soil, mulch, irrigation systems, components of irrigation systems, and soil nutrients; (vi) to purchase technical gardening assistance, guidance, or consulting services, provided such services are used on behalf of the Community Agriculture Cooperative; (vii) to purchase legal assistance, guidance, or consulting services, provided such services are used on behalf of the Community Agriculture Cooperative; (viii) to purchase financial accounting, financial bookkeeping, or financial consulting services, provided such services are used on behalf of the Community Agriculture Cooperative; (ix) to compensate members of the Community Agriculture Cooperative to grow community food, maintain and improve the Community Garden, or train others to grow community food or maintain and improve the Community Garden, provided that no member is compensated with an hourly income of less than the quotient of 1/1,920 multiplied by 140 percent of the statewide per capita income, as calculated by the United States Census Bureau, or is compensated with an hourly income of more than the quotient of 1/1,920 multiplied by 180 percent of the statewide per capita income, as calculated by the United States Census Bureau; and (x) to purchase any additional items, goods, products, property, or services that the commissioner deems appropriate.

(c) In order to sell or otherwise alienate any piece of land or real property, a Community Agriculture Cooperative must obtain the approval of the commissioner. The division shall develop an efficient and convenient system through which a Community Agriculture Cooperative may submit an application to sell or otherwise alienate any piece of land or real property.

(d) A Community Agriculture Cooperative may not disburse funds to its members except as compensation for: (i) labor performed to produce community food; (ii) labor performed to

267 distribute community food; (iii) labor performed to maintain, clean, or improve land, items,
268 buildings, structures, or real property belonging to the Community Agriculture Cooperative; (iv)
269 labor performed to research information for the benefit of the Community Agriculture
270 Cooperative or its members; (v) administrative business of the Community Agriculture
271 Cooperative, including, but not limited to, attending meetings and bookkeeping; or (vi) in
272 furtherance of any other purpose deemed appropriate by the commissioner.

273 Section 5. (a) As soon as is feasible, and no later than 90 days after being formally
274 incorporated in the commonwealth, a Community Agriculture Cooperative shall hold an election
275 in which all of its members may vote to elect between 6 and 12 Directors to serve on that
276 Community Agriculture Cooperative's Board of Directors.

277 (b) All members of a Community Agriculture Cooperative are eligible to be elected as a
278 Director of that Community Agriculture Cooperative.

279 (c) Only members of a Community Agriculture Cooperative are eligible to be elected as a
280 Director of that Community Agriculture Cooperative.

281 (d) All members of a Community Agriculture Cooperative shall be eligible to vote for its
282 Board of Directors.

283 (e) Only members of a Community Agriculture Cooperative shall be eligible to vote for
284 its Board of Directors.

285 (f) Within 90 days of a Community Agriculture Cooperative electing its first Board of
286 Directors, the Board of Directors shall draft the Community Agriculture Cooperative's bylaws.

(g) A Community Agriculture Cooperative's bylaws shall specify: (i) how often the Community Agriculture Cooperative shall hold elections for its Board of Directors, provided that those elections shall take place at least once every 2 years; (ii) the rules and procedures governing the Community Agriculture Cooperative's elections for members of the Board of Directors; (iii) that all permanent residents of the geographic membership area specified in the Community Agriculture Grant Application to which the Community Agriculture Cooperative is linked are members of the Community Agriculture Cooperative; and (iv) any other matters, procedures, rules, or regulations which the Board of Directors deems appropriate to include in the bylaws, provided they are consistent with the provisions of this chapter.

(h) In order to be adopted, the bylaws of a Community Agriculture Cooperative must be approved by at least 60 percent of the Board of Directors.

(i) In order to be amended, the bylaws of a Community Agriculture Cooperative must be approved by at least 60 percent of the Board of Directors.

(j) Within 90 days of a Community Agriculture Cooperative electing its first Board of Directors, the Board of Directors shall select one of its members to serve as that Community Agriculture Cooperative's Treasurer.

(k) Any meeting of a Board of Directors shall be open to any member of the Community Agriculture Cooperative. The time and location of all meetings of a Board of Directors shall be publicly announced not later than 14 days before the meeting takes place.

Section 6. (a) For the election in which a newly incorporated Community Agriculture Cooperative elects its first Board of Directors, the division shall make all appropriate and feasible efforts to notify each member of the Community Agriculture Cooperative: (i) that they

are a member of the newly incorporated Community Agriculture Cooperative; (ii) that the Community Agriculture Cooperative is receiving a financial grant to produce food; (iii) that the Board of Directors will be empowered to make important decisions about the type of food produced, the ways in which it is produced, and the ways in which it is distributed; (iv) that they may vote to elect the Community Agriculture Cooperative's first Board of Directors; and (v) the date, time, and location at which the election shall be held.

(b) For the first election in which a Community Agriculture Cooperative elects its first Board of Directors, the ballots must be cast and counted within the geographic membership area.

(c) For the first election in which a Community Agriculture Cooperative elects its first Board of Directors, the division alone shall have the duty and authority to: (i) schedule the election; (ii) facilitate a fair way in which members may cast votes through secret ballots; (iii) count the votes; and (iv) notify all members of the names of the individuals who were elected to be on the Community Agriculture Cooperative's first Board of Directors.

Section 7. (a) A Community Agriculture Grant shall consist of a one-time financial grant, disbursed by the division, directly to the bank account of a Community Agriculture Cooperative.

(i) A Community Agriculture Grant for a Community Agriculture Cooperative that has not greater than 500 permanent residents of its geographic membership area, as determined by the commissioner, shall consist of \$500,000.

(ii) A Community Agriculture Grant for a Community Agriculture Cooperative that has not less than 500 permanent residents and not greater than 750 permanent residents of its geographic membership area, as determined by the commissioner, shall consist of \$700,000.

(iii) A Community Agriculture Grant for a Community Agriculture Cooperative that has not less than 750 permanent residents and not greater than 1,000 permanent residents of its geographic membership area, as determined by the commissioner, shall consist of \$1,000,000.

(b) The division retains the legal right to claim the remaining, unspent money from a Community Agriculture Grant or claim ownership over any items, tools, land, real property, or equipment that was purchased with money from a Community Agriculture Grant if a major violation has taken place.

(c) A Community Agriculture Grant shall not be deposited in the bank account of a Community Agriculture Cooperative until each one of its Directors signs a memorandum of understanding indicating that they understand and consent to: (i) allow the division to claim the remaining, unspent money from a Community Agriculture Grant or to claim ownership over any items, tools, land, real property, or equipment that was purchased entirely with money from a Community Agriculture Grant if a major violation has taken place; (ii) allow the division, its agents, and its employees to inspect the records, bank statements, and premises of a Community Agriculture Cooperative to ensure compliance with the regulations established by this chapter; and (iii) all of the duties and legal obligations established by this chapter.

Section 8. (a) The division shall create an application called the Community Agriculture Grant Application with which individuals can apply for a Community Agriculture Grant. The division and its agents and employees shall refer to the Community Agriculture Grant Application as such.

(b) Any party submitting a Community Agriculture Grant Application must live in the geographic membership area identified in that Community Agriculture Grant Application.

(c) The Community Agriculture Grant Application shall require the applicant to: (i) provide their name; (ii) provide their address; (iii) identify a geographic membership area, defined according to the street names that compose the borders of the geographic membership area; and (iv) provide any other information that the commissioner deems appropriate to include on every Community Agriculture Grant Application.

Section 9. (a) The division shall develop regulations and guidelines regarding the process and criteria for approval of a Community Agriculture Application, including but not limited, to:

(1) Prioritize a Community Agriculture Application with a geographic membership area that overlaps with Census Tracts which, on average, have a lower median household income, over a Community Agriculture Application with a geographic membership area that overlaps with Census Tracts which, on average, have a higher median household income, as calculated by the U.S. Census Bureau; and

(2) Prioritize Community Agriculture Applications which indicate, in the judgment of the division, that the applicant has developed a strong and credible plan to grow community food. When considering the strength and credibility of such a plan, the division shall consider whether a Community Agriculture Application includes (i) a specific proposal involving what kinds of food to grow and how to distribute or sell it; (ii) a specific proposal involving where to purchase land or other real property; (iii) evidence of community support for said proposals within the geographic membership area; (iv) information that, in the judgment of the division, indicates that the plan would be likely to succeed if it were adopted by the board of directors of a Community Agriculture Cooperative; and (v) any other information that the division lawfully and appropriately deems relevant.

(b) When the division approves a Community Agriculture Application, the division shall assist the applicant in filing the necessary paperwork to incorporate a nonprofit corporation in the commonwealth that shall serve as the Community Agriculture Cooperative.

(c) When the division approves a Community Agriculture Application, the division shall assist the applicant in creating a bank account for the Community Agriculture Cooperative to use and into which the Community Agriculture Grant may be deposited.

Section 10. No part of a geographic membership area may overlap with any Census Tract for which the median household income, as calculated by the US Census Bureau, exceeds 90 percent of the statewide median household income, as calculated by the US Census Bureau.

Section 11. A Community Agriculture Cooperative may not purchase land or real property on which to grow community food if that land or real property is more than one mile from the closest point within the geographic membership area.

Section 12. (a) The division shall establish a clear and convenient system with which a Community Agriculture Cooperative, by and through its agents, can record all purchases it makes with funds, in whole or in part, from a Community Agriculture Grant.

(b) A Community Agriculture Cooperative, by and through its agents, must record every purchase it makes with funds, in whole or in part, from a Community Agriculture Grant, within seven days of making such purchase.

(c) On the first day of each calendar month, a Community Agriculture Cooperative shall notify the division of any purchases that it made in the previous calendar month with funds, in whole or in part, from a Community Agriculture Grant.

(d) The division shall not require a Community Agriculture Cooperative to obtain consent from the division to make purchases with funds from a Community Agriculture Grant, before those purchases have been made.

(e) At any time, the division, its agents, and its employees shall have the right to inspect the records, bank statements, and premises of a Community Agriculture Cooperative to ensure compliance with the regulations established by this chapter.

(f) Minor violations may not be punished.

(g) Major violations may be punished in either or both of the following ways: (i) the commissioner may punish major violations by claiming the remaining, unspent money from a Community Agriculture Grant or claiming ownership over any items, tools, land, real property, or equipment that was purchased entirely with money from a Community Agriculture Grant; (ii) the commissioner may punish major violations by requiring any individual or group of individuals to resign from the Board of Directors and to schedule an election to fill the resultant vacancies on the Board of Directors.

Section 13. (a) The division shall create and publish Community Agriculture Standards, including, but are not limited, to: (i) minimize, to the greatest extent feasible and appropriate, the use of chemical fertilizers; (ii) minimize, to the greatest extent feasible and appropriate, the use of chemical pesticides; (iii) minimize, to the greatest extent feasible and appropriate, the use of chemical herbicides; (iv) minimize, to the greatest extent feasible and appropriate, the frequency with which soil is tilled; (v) minimize, to the greatest extent feasible and appropriate, the number of inches that tilling extends into the soil; and (vi) maximize, to the greatest extent feasible and appropriate, the use of polyculture.

417 (b) The division shall amend the Community Agriculture Standards when appropriate.

418 (c) The division shall develop regulations to ensure that community food is grown in soil
419 that does not contain dangerous levels of lead or any other toxin.

420 (d) If community food is grown directly in the ground, the ground soil must be tested first
421 to ensure that it does not contain dangerous levels of lead or any other toxin.

422 Section 14. (a) The division shall hire not less than two Technical Assistance Experts
423 with direct experience with agricultural production that does not rely on chemical fertilizers,
424 chemical pesticides, or chemical herbicides. No fewer than one of the Technical Assistance
425 Experts will have direct experience with indoor agricultural production.

426 (b) The Technical Assistance Experts shall be available to help members of Community
427 Agriculture Cooperatives, answer their questions, and offer guidance regarding agricultural
428 production.

429 (c) At least one Technical Assistance Expert shall speak English and any other language
430 spoken by at least 10 percent of the Massachusetts population.

431 (d) Technical Assistance Experts must be hired as full time employees of the division.

432 (e) Technical Assistance Experts must receive an annual salary that is not less than 140
433 percent of the statewide per capita income, as calculated by the United States Census Bureau.

434 (f) Technical Assistance Experts must receive health insurance, dental insurance, at least
435 two weeks of paid vacation time, and at least one paid sick day off of work for every 20 days in
436 which they work more than 6 hours.

437 Section 15. The division shall have the power to promulgate any administrative rules and
438 adjudicate any administrative hearings which are appropriate to implementing this chapter.