

## ARTICLES

### Food, Shelter, Hope:

#### Examining the Possibilities of Agricultural Tiny Home Communities for the Homeless

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*This Article discusses the unique but often concurrent issues of homelessness and food insecurity in America and considers how agricultural tiny home communities could be developed to address these problems. Examples of existing tiny home communities across the country, the myriad benefits agricultural tiny home communities would generate, and likely challenges to implementation are considered. Finally, this Article analyzes the legal hurdles involved in developing agricultural tiny home communities and the role of lawyers in removing development barriers.*

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## I. INTRODUCTION

Homelessness and food insecurity are distinct but often concurrent problems. Tiny home communities centered around agriculture offer an opportunity to combat these issues while also providing a host of additional benefits for community residents and the surrounding areas.

The tiny home movement has garnered significant attention in recent years, so much so that multiple popular television shows and a magazine dedicated to this way of living now exist.<sup>1</sup> The idea of tiny home living is not a new concept, but

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1. *Tiny House Nation*, FYI, <https://www.fyi.tv/shows/tiny-house-nation> (last visited Nov. 19, 2019); *Tiny House Big Living*, HGTV, <https://www.hgtv.com/shows/tiny-house-big-living> (last visited Nov. 19, 2019).

the concept has grown in popularity since the 1990s.<sup>2</sup> Entire communities of tiny homes have taken hold in cities across the United States and around the world.<sup>3</sup>

Tiny home living has different draws for different groups of people. For some, the notion of minimalistic living and the freedom associated with less permanent or less stationary structures are the primary selling points. As a solution for combatting homelessness, though, tiny homes and tiny home communities represent something quite different: they represent more permanent housing and stability. Tiny home communities for those experiencing homelessness have been established in a number of U.S. cities, including Austin, Texas;<sup>4</sup> Portland, Oregon;<sup>5</sup> Seattle, Washington;<sup>6</sup> and Eugene, Oregon.<sup>7</sup> Affordable housing is a problem nationally, leaving many on the streets in cities across America. Tiny home communities offer a comparatively low-cost solution to address this problem while having the potential to provide enormous benefits.

Creating tiny home communities centered around sustainable urban agriculture practices would have food security, environmental, and social benefits as well as provide job-training opportunities for community residents. Many of the tiny home communities for the homeless currently in existence include features such as community gardens and raised garden beds.<sup>8</sup> This is an excellent start, but more could be done.

This Article will first examine the issues of food insecurity and homelessness in the United States and the overlap between these social harms. It will then consider how agricultural tiny home communities could be developed to address these problems, provide examples of existing tiny home communities across the country, and discuss the benefits and challenges these communities would bring. Finally, this Article will analyze the legal hurdles involved in developing an agricultural tiny home community and the role of lawyers in removing development barriers.

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2 . See Blake Whitford, *The History of the Tiny House Movement*, COZE LIVING, <https://cozeliving.com/tiny-house-movement> (last visited Nov. 19, 2019) (discussing the general timeline and evolution of the tiny-house movement).

3. See e.g., TINY HOUSE KULTUR, <https://www.tiny-house-kultur.de/die-idee> (last visited Nov. 19, 2019); SOC. BITE VILLAGE, <http://www.socialbitevillages.co.uk> (last visited Nov. 19, 2019); *Community First! Village*, MOBILE LOAVES & FISHES, <https://mlf.org/community-first> (last visited Nov. 19, 2019); The Homestead Project, OKOTOKS, <https://www.okotoks.ca/municipal-government/public-participation/tiny-homes-eco-village> (last visited Nov. 19, 2019); DIGNITY VILLAGE, <https://dignityvillage.org> (last visited Nov. 19, 2019) (offering examples of the many tiny home villages in existence around the world).

4. *Community First! Village*, *supra* note 3.

5. DIGNITY VILLAGE, *supra* note 3.

6. *Tiny Houses*, LOW INCOME HOUS. INST., <https://lihi.org/tiny-houses> (last visited Nov. 19, 2019).

7. SQUARE ONE VILLAGES, <https://www.squareonevillages.org> (last visited Nov. 19, 2019).

8. See e.g., *Community First! Village*, *supra* note 3; *Quixote Village Frequently Asked Questions*, QUIXOTE COMMUNITIES, <http://www.quixotecomunities.org/quixote-village-faq.html> (last visited Nov. 19, 2019).

## II. FOOD INSECURITY IN AMERICA

### A. *What is Food Insecurity?*

Food insecurity can be defined as having insufficient access to adequate acceptable food to meet a person's needs.<sup>9</sup> Access is both a question of physical access and affordability. The United States Department of Agriculture (USDA) separates food insecurity into two categories.<sup>10</sup> It defines low food security as having “reduced quality, variety, or desirability of diet [but] little or no indication of reduced food intake.”<sup>11</sup> Very low food insecurity is defined as having “multiple indications of disrupted eating patterns and reduced food intake.”<sup>12</sup>

This sterile definition, however, fails to encompass the full picture of food insecurity. Food insecurity goes beyond hunger or asking whether a person lives in a food desert.<sup>13</sup> Discussion of food security must also include “the experience and political economy of food insecurity, including the spatial, social, cultural, political, and the emotional aspects of food.”<sup>14</sup> For those facing food insecurity, there can be difficulty navigating the systems to access food even when it theoretically is available. Questions that might factor into individuals' ability to obtain food from government and non-profit organizations are: What places are open and when? Is the individual the type of person the organization seeks to serve? Is the organization or entity open on holidays? Eligibility requirements and administrative hurdles in applying for government programs, such as the Supplemental Nutrition Assistance Program (SNAP), can also create access barriers.<sup>15</sup> Furthermore, the stigma associated with using government and non-profit programs to access food can deter use by those in need and increase the likelihood of food insecurity.<sup>16</sup>

### B. *Who Does Food Insecurity Affect?*

Food insecurity is a problem across the nation, from urban neighborhoods to rural communities. Urban areas, though, tend to have higher rates of food insecurity.<sup>17</sup> According to USDA Economic Research Services (ERS) data, an estimated 40 million Americans were food insecure in 2017, including 27.5 million

9. NAT'L RES. COUNCIL OF THE NAT'L ACAD. PRESS, *FOOD INSECURITY AND HUNGER IN THE UNITED STATES: AN ASSESSMENT OF THE MEASURE 43* (Gooloo S. Wunderlich & Janet L. Norwood eds., 2006) (explaining the differences in definitions used to describe the terms “food insecurity,” “hunger,” and “malnutrition”).

10. *Definitions of Food Security*, U.S. DEP'T. AGRIC. ECON. RES. SERVS., <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/definitions-of-food-security.aspx> (last visited Nov. 19, 2019).

11. *Id.*

12. *Id.*

13. Christiana Miewald & Eugene McCann, *Foodscapes and the Geographies of Poverty: Sustenance, Strategy, and Politics in an Urban Neighborhood*, 46 *ANTIPODE* 537, 543 (2013).

14. *Id.*

15. Elizabeth Bowen & Andrew Irish, *'Hello, you're not supposed to be here': Homeless emerging adults' experiences negotiating food access*, 21 *PUB. HEALTH NUTRITION* 1943, 1947 (2018).

16. *Id.* at 1947–48.

17. Sharon Kirkpatrick & Valerie Tarasuk, *Housing Circumstances are Associates with Household Food Access among Low-Income Urban Families*, 88 *J. URBAN HEALTH* 284, 284 (2011).

adults and 12.5 million children.<sup>18</sup> The ERS report, *Household Food Security in the United States in 2017*, states that this amounts to “12.5[%] of the U.S. civilian noninstitutionalized population[.]”<sup>19</sup> As shocking as these numbers are, they are likely significantly less than what the true numbers would reveal, as this data reflects the number of food insecure “households,” a calculation which leaves out the homeless population.<sup>20</sup> Reliable, current data documenting the overlap between homelessness and food insecurity is unfortunately lacking, as most broad surveys fail to include those without phone numbers or permanent addresses, and data collection which has focused on this subset of the population are often narrow in scope or highly localized.<sup>21</sup> Thus, while valuable as a metric for determining food insecurity for the housed, noninstitutionalized population, the data set is incomplete in a serious way as it fails to account for one of society’s most vulnerable groups.

### III. HOMELESSNESS IN AMERICA

#### A. *What is Homelessness?*

The U.S. Department of Health and Human Services (HHS) defines a homeless individual as “an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility (e.g., a shelter) that provides temporary living accommodations, and an individual who is a resident in transitional housing.”<sup>22</sup> The instability of a person’s housing situation is at the crux of this determination for HHS.<sup>23</sup>

The U.S. Department of Housing and Urban Development (HUD) uses a different and more narrow definition to determine who is included in the homeless population. It specifically includes within its definition such circumstances as when

an individual [] lacks a fixed, regular, and adequate nighttime residence;

...

[an] individual or family[] will imminently lose their housing, has no subsequent residence identified, and lacks the resources or support networks needed to obtain other permanent housing;[and]

...

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18. ALISHA COLEMAN-JENSEN ET AL., U.S. DEP’T AGRIC. ECON. RES. SERVS., *HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2017* at 9 (2018).

19. *Id.*

20. *Id.* at 11.

21. Barrett Lee & Adam Lippert, *Food Insecurity among Homeless and Precariously Housed Children: Evaluating a Parental Management Model* (Population Assoc. of America, annual meeting, Paper Proposal Sept. 26, 2017)

22. 42 U.S.C. § 254b(h)(A) (2012). The constitutionality of this definition has been considered by the courts in both *Florida v. U.S. Dep’t. Health & Hum. Serv.*, 648 F.3d 1235 (11th Cir. 2011), and *Texas v. U.S.*, 340 F. Supp.3d 579 (N.D. Tex. 2018). HHS’ website fails to provide a clear definition for who is considered a “homeless individual,” so whether this definition is currently being used by HHS employees to determine homelessness remains unclear.

23. *Id.*

[u]naccompanied youth and homeless families with children and youth [] who have experienced a long-term period without living independently in permanent housing, have experienced persistent instability as measured by frequent moves over such period, and can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.<sup>24</sup>

These differing definitions of homelessness demonstrate that who is and who is not considered as part of the homeless population can change from one government body to the next, which may impact statistical data collection and determination of the full extent of homelessness in America. Nevertheless, as will be discussed next, lack of housing remains a critical problem for hundreds of thousands of people across the United States every day.

### *B. Who Does Homelessness Affect?*

Using HUD's point-in-time data from January 2017, it is estimated that nearly 553,000, or roughly 17 for every 10,000, people experienced homelessness on any given night in 2018 nationally.<sup>25</sup> Significant discrepancies between rates of homelessness exist across the country, with numbers as high as 110 for every 10,000 people in Washington, D.C. and as low as 5 for every 10,000 in Mississippi.<sup>26</sup> And while the rate of homelessness in 2017 was the lowest since HUD began collecting this data in 2005,<sup>27</sup> the total number of Americans experiencing homelessness actually increased 0.7% from the previous year, and the number of unsheltered persons increased for the first time in ten years.<sup>28</sup>

The causes leading to homelessness are varied. However, poverty, unaffordable housing prices, and illness are three primary drivers. The link between poverty, unaffordable rent prices, and homelessness is highly interconnected. With a national minimum wage at just \$7.25 per hour,<sup>29</sup> even when employers pay slightly higher wages, making ends meet is a nearly impossible battle for those working in many low-earning positions. As reported in the National Low Income Housing Coalition 2018 Gap Report, "of the 43.8 million renter households in the U.S., 11.2 million (more than one-quarter) are extremely low

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24. Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, Pub. L. No. 111-22, § 1003, 123 Stat. 1632, 1663 [subsections omitted]. See also *HUD's Definition of Homelessness: Resources and Guidance*, HUD EXCHANGE (Mar. 8, 2019), <https://www.hudexchange.info/news/huds-definition-of-homelessness-resources-and-guidance> (providing links to "existing resources related to HUD's definition of homelessness[,] available as of March 2019").

25. *State of Homelessness*, NAT'L ALLIANCE TO END HOMELESSNESS, <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-report> (last visited Nov. 19, 2019).

26. *Id.*

27. *Id.*

28. Ralph Johnson, *Homelessness: A Critical Approach to Architecture and Planning*, 217 SUSTAINABLE DEV. & PLANNING 675, 677 (2019).

29. *Minimum Wage*, U.S. DEP'T OF LABOR, <https://www.dol.gov/general/topic/wages/minimumwage> (last visited Nov. 19, 2019).

income.”<sup>30</sup> The suggested percentage a household should spend on housing is thirty percent of its members’ income;<sup>31</sup> however, an estimated eight million extremely-low-income households pay fifty percent or more.<sup>32</sup> This means that these households are one sickness, one job-loss, or one car repair away from homelessness. With average housing prices for a modest two-bedroom apartment requiring nearly a threefold increase in minimum wage for a full-time worker<sup>33</sup> and a shortage of affordable housing in the market,<sup>34</sup> finding stable housing solutions has become exceedingly difficult for those living in poverty.

Illness is another common problem leading to homelessness, and it is a problem that can be exacerbated once a person becomes homeless. Without assistance, mental illness, addiction, physical illness, and disability can make living in and affording stable housing challenging.<sup>35</sup>

According to the U.S. Department of Housing and Urban Development, people living in shelters are more than twice as likely to have a disability compared to the general population. On a given night in 2017, 20 percent of the homeless population reported having a serious mental illness, 16 percent [had] conditions related to chronic substance abuse, and more than 10,000 people had HIV/AIDS. Conditions such as diabetes, heart disease, and HIV/AIDS are found at high rates among the homeless population, sometimes three to six times higher than that of the general population.<sup>36</sup>

Furthermore, the greater likelihood of living in dangerous conditions and having increased exposure to the elements increases the chance of developing acute illnesses.

This information provides merely a snapshot of the issues involved in, and the data on, homelessness in the United States. The full spectrum of factors leading to, and encompassed in, the picture of homelessness is beyond the scope of this Article. However, this information is intended to provide context for considering the problem of homelessness and agricultural tiny home communities as a solution.

#### IV. THE OVERLAP BETWEEN FOOD INSECURITY AND HOMELESSNESS

While recent data on the overlap between homelessness and food insecurity is lacking, the National Survey of Homeless Assistance Providers and Clients (NSHAPC) conducted a survey regarding use of social services by homeless persons across the United States in 1996. The data showed that over

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30. ANDREW AURAND ET AL., NAT’L LOW INCOME HOUS. COAL., *THE GAP: A SHORTAGE OF AFFORDABLE HOUSING* 3 (2018).

31. Kathleen Elk, *How Much of Your Income You Should be Spending on Housing*, CNBC (June 6, 2018), <https://www.cnbc.com/2018/06/06/how-much-of-your-income-you-should-be-spending-on-housing.html>.

32. *Housing*, NAT’L ALLIANCE TO END HOMELESSNESS, <https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/housing> (last visited Nov. 19, 2019).

33. AURAND ET AL., *supra* note 30, at 12.

34. *Id.* at 3.

35. *Health*, NAT’L ALLIANCE TO END HOMELESSNESS, <https://endhomelessness.org/homelessness-in-america/what-causes-homelessness/health> (last visited Nov. 19, 2019).

36. *Id.*

eighty percent of those polled had experienced food insecurity.<sup>37</sup> Though more than twenty years old now, without significant reason to believe otherwise, it seems likely that this data would remain similar today.<sup>38</sup>

Food insecurity and homelessness are each individual problems presenting unique challenges. However, homelessness and food insecurity frequently occur concurrently. Food and shelter are two of our most basic needs as humans, and when these two major life concerns intertwine, the resulting scenario is particularly problematic. While hunger and food insecurity are not experienced uniformly across the homeless population, there are factors that make the homeless population as a whole more likely to be food insecure than the general population. Lack of resources to purchase food, inability to access nutritious food sources, and lack of education regarding nutrition all affect food security and hunger.<sup>39</sup> Without a means to keep, prepare, and store food, the ability to consume perishable items is decreased even when individuals can acquire these foods.<sup>40</sup> This likely makes dependence on prepackaged foods higher.<sup>41</sup>

Though sufficient food was not rated as the highest priority in a 2004 survey of homeless persons (falling, instead, behind good health, steady housing, and employment), this does not mean that hunger and food security among the homeless population are problems that have been solved or which should be ignored.<sup>42</sup> Using the data from the 1996 NSHAPC survey, researchers in 2008 compiled this data and cataloged respondents' answers to study the "character and correlates of hunger among homeless people."<sup>43</sup> The researchers found that

[r]oughly three-fifths of the respondents note[d] problems with inadequate food in terms of quantity or preference (61.1%) and with infrequent meals (57.2%). Two-fifths report[ed] fasting for an entire day (39.8%) and being unable to afford food (39.1%) during the past month. More than one in ten (12%) ha[d] engaged in subsistence eating within the past week, turning to trash cans or handouts as food sources. When the five types of food insecurity [were] considered simultaneously, 81.2% of respondents [had] experienced at least one type, and a large majority [had]

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37. Anna Holland et al., *The assessment of food security in homeless individuals: A comparison of the Food Security Survey Module and the Household Food Insecurity Access Scale*, 14 PUB. HEALTH NUTRITION 2254, 2254 (2011).

38. See Lee & Lippert, *supra* note 21, at 5 ("Because of the survey year, one might question whether [the National Survey of Homeless Assistance Providers and Clients data] still offers an accurate picture of [child food insecurity] among homeless and precariously housed families. We maintain that even 'seasoned' data on variation in [child food insecurity] across these families can prove valuable if there is little reason to expect such variation or its correlates to have changed dramatically over time.").

39. Barrett Lee & Meredith Greif, *Homelessness & Hunger*, 49 J. HEALTH SOC. BEHAV. 1, 3 (2014).

40. *Id.*

41. See Naomi Dachner & Valerie Tarasuk, *Ch. 8 Homeless Youth, Nutritional Vulnerability, and Community Food Assistance Programs*, in YOUTH HOMELESSNESS IN CANADA: IMPLICATIONS FOR POLICY AND PRACTICE, 131, 134 (2013) (stating that, "[i]n addition to youth's lack of money, their homelessness limited the kinds of food they could buy, causing them to rely on fast food and pre-packaged snacks (e.g. chips, chocolate bars and pop)").

42. Lee & Greif, *supra* note 38, at 11.

43. *Id.* at 1.



experienced two or more. Nearly one in 20 homeless cite[d] all five, manifesting across-the-board hunger.<sup>44</sup>

Thus, while food may not be the number one concern for many persons experiencing homelessness, there is still a very significant need to improve access to adequate, acceptable food for this segment of the population.

## V. AGRICULTURAL TINY HOME VILLAGES

For the concurrent issues of homelessness and food insecurity, agricultural tiny home villages for the homeless could offer a solution to address both problems while providing additional benefits, both for residents of these communities and the surrounding areas. This section will discuss potential setups, design structures, and features these communities could incorporate, followed by examples of tiny home communities for the homeless that have been established across the country.<sup>45</sup> It will then explore the benefits these communities would bring, along with potential challenges.

### A. Structure, Design, and Community Features

#### 1. Tiny Home Structure and Design Possibilities

Tiny homes can be designed in many different ways, but they typically range in size between 60–400 square feet.<sup>46</sup> The physical structure of a tiny home can vary widely. Tiny homes can be permanent structures, built on wheels, or designed to be broken down and movable in pieces.<sup>47</sup> They can be designed as tents, tepees, sheds, micro-apartments, cottages, or even yurts.<sup>48</sup> The design options are limited only by creativity and budget.

Existing communities vary in the types of in-unit amenities residents are provided. Units could be all-encompassing—providing water, electricity, kitchenettes, and plumbing. They could be relatively basic in nature—providing the resident with a bed, some shelf space or a small closet, a window, and a locking door. Or, they could fall somewhere in between. The former would likely be considered a dwelling unit, whereas the latter could more easily fit into the

44. *Id.* at 10, 12. The five types of food insecurity, here, refer to infrequent consumption, fasting, inadequate food (combining both quality and quantity considerations), subsistence eating, and unaffordable food).

45. A TINY HOME FOR GOOD, <https://www.atinyhomeforgood.org> (last visited Nov. 19, 2019); Jessica Bliss, *6 micro houses for Nashville homeless find permanent space*, TENNESSEAN (Aug. 22, 2015), <https://www.tennessean.com/story/news/2015/08/21/6-micro-houses-homeless-find-permanent-space/32018199>; Robin Runyan, *This tiny house could be a game changer for the low-income population in Detroit*, CURBED (Sept. 9, 2016), <https://detroit.curbed.com/2016/9/9/12860756/tiny-house-detroit-neighborhood-low-income>; MY TINY HOUSE PROJECT LA, <http://www.mythpla.org/home.html> (last visited Nov. 19, 2019).

46. *How Big Can a Tiny House Be?*, TINY HOUSE, <https://www.thetinyhouse.net/how-big-can-a-tiny-house-be> (last visited Nov. 19, 2019).

47. Blake Whitford, *A Beginner's Guide to Different Types of Tiny Houses*, COZE LIVING, <https://cozeliving.com/beginners-guide-different-types-of-tiny-houses> (last visited Nov. 19, 2019).

48. *See id.*; *see also* *9 Types of Tiny Homes*, SALTER SPIRAL STAIR, <https://www.salterspiralstair.com/blog/types-tiny-homes> (last visited Nov. 19, 2019) (listing various types of tiny-home structural models).

definition of a sleeping unit. A sleeping unit is “[a] room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both.”<sup>49</sup> How the units are characterized—as sleeping units or as dwelling units—will likely matter for local building code purposes. Since many local codes are based on the dwelling unit, sleeping units would likely generate fewer code requirements and regulations with which to comport. Relevant building, residential, and zoning law considerations will be discussed in detail later.<sup>50</sup> For those communities opting for more basic setups, having communal space would be key, such as a communal kitchen, communal showers and restrooms, and communal recreation areas.

Because one of the primary food-related problems identified by those experiencing homelessness was the inability to keep and store perishable food items, having an in-unit mini refrigerator would likely be a welcomed feature. Having additional kitchen appliances and food preparation facilities set up in a communal setting would be both cost effective and provide social benefits by increasing interaction among community residents. In doing so, this would strengthen the social network within the community. These communal spaces could also be used for skills-training and provide space to create opportunities to connect with the broader community. These potential benefits will be discussed in greater detail below.

With expanded in-unit amenities comes increased cost. Installing plumbing in each unit would likely increase costs significantly. For this reason, having communal shower and restroom facilities may be an economically preferable decision. The individual needs, goals, and resources of the community will determine what design and structural decisions are most appropriate for a given location.

## 2. Community Features

### a. Community Rules and Resident Requirements

Tiny home communities for the homeless are typically viewed as a bridge to permanent housing.<sup>51</sup> This requires more than simply putting a roof over a person’s head. Support services for community members are critical to tiny home communities for the homeless. Many tiny home communities also have community service requirements for residents.<sup>52</sup> Engaging in community service within the tiny home community, first, acts as a means to foster pride and ownership in the community. Second, it places a responsibility on residents and

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49. INT’L PROP. MAINT. CODE § 202 (2015) (INT’L CODE COUNCIL), <https://www2.bgky.org/assets/files/aqoB3Kn5.pdf> (definition of “sleeping unit”).

50. *See infra* Part VI.

51. *See* Sharon Lee, *Tiny House Villages in Seattle: An Efficient Response to Our Homelessness Crisis*, SHELTERFORCE (Mar. 15, 2019), <https://shelterforce.org/2019/03/15/tiny-house-villages-in-seattle-an-efficient-response-to-our-homelessness-crisis> (discussing tiny-home villages as a solution to homelessness).

52. *See Entrance Agreement*, DIGNITY VILLAGE, <https://dignityvillage.org/services/entrance-agreement> (last visited Nov. 19, 2019) (requiring community residents to complete 10 hours of “‘sweat’ equity” each week).

helps establish a sense of routine and commitment. Third, it can provide necessary services for the community. Examples may include requiring all residents to perform security shifts within the community or stand on fire-watch duty in rotating turns.

In addition to community service involvement, these tiny home communities typically have rules residents are required to follow.<sup>53</sup> Some communities may even require a trial period wherein the prospective resident must demonstrate that he or she can follow the community rules.<sup>54</sup> Dignity Village, in Portland, Oregon, for instance, requires members to commit to ten volunteer hours within the community each week, and members must agree to abide by the community rules as a condition for membership.<sup>55</sup> These rules prohibit violence against oneself or others; theft; possession or use of alcohol, illegal drugs, or drug paraphernalia on-site or within a one-block radius; and constant disruptive behavior.<sup>56</sup>

#### b. Access to Transportation

Where to locate a community within a city is an important consideration. Residents may not have cars, so being located near public transportation is crucial. If not located near public transportation, the community should provide transportation services for residents in order to facilitate residents' ability to interact with the larger community and improve employment prospects. If transportation services are provided by the community, additional costs and administrative issues would need to be considered. If located near public transportation, the community could work with the local government to provide free passes or reduced-cost passes for residents.

#### c. Population Capacity

The size of the community is another consideration for tiny-home community developers. Larger communities have the benefit of housing more people but could be more difficult to manage and maintain and may also detract from the sense of community. However, very large-scale communities have been successfully developed, such as the Community First! Village in Austin, Texas. Community First! is a fifty-one-acre community that currently has over 200 homes and when complete will be able to house nearly 500 residents.<sup>57</sup>

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53. See *id.*; *What kinds of rules are there in Community First! Village?*, *Frequently Asked Questions*, MOBILE LOAVES & FISHES, [https://mlf.org/faq\\_category/general](https://mlf.org/faq_category/general) (last visited Nov. 19, 2019) (discussing rules Community First! residents must abide by to remain members of the community).

54. See Anne Wyatt, *Rethinking Shelter and Tiny House Communities: Dignity Village, Portland and Lessons for San Luis Obispo*, 11 *FOCUS* 39, 41 (2005), <https://digitalcommons.calpoly.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1283&context=focus>.

55. *Entrance Agreement*, *supra* note 52.

56. *Id.*

57. *Community First! Village*, *supra* note 3.

#### d. Agricultural Features

Because the focus in these communities would be on food and agriculture, it is important to think about the “foodscape” as a whole. The term foodscape refers to the different means of “food production, retailing, and consumption,” and how people interact with food in their everyday lives, which includes considerations of the moral and ethical meanings we give to food.<sup>58</sup> Here, the goal is to position food centrally within residents’ lives and make it a core component of the community’s fiber.

There are a number of urban agriculture methods that would be particularly suited for these types of communities. Community gardens are common features in tiny home communities.<sup>59</sup>

Community gardens typically serve those who do not have access to private garden plots. They may be defined as any piece of land gardened by a group of people, using either individual or shared plots on private or public land. The land may produce edibles, such as herbs, fruits, and vegetables, but it is very common to find ornamentals dispersed throughout the garden as well.<sup>60</sup>

Residential gardens are a form of community gardens commonly found in affordable housing communities.<sup>61</sup> Residents of the community are the primary caretakers of the garden.<sup>62</sup> The benefits of community gardens are wide-ranging. Community gardens do not only provide increased access to fresh fruits and vegetables. They also provide educational opportunities to learn about the importance of nutrition, how our food system operates in the ecological landscape, and the skills involved in food production.<sup>63</sup> In an agricultural tiny home community, having one communal garden that all residents share would provide social value as well, as residents would all contribute to the cultivation of the garden for the benefit of all.

Residents could also be permitted and encouraged to keep individual backyard gardens, where space allows. Backyard gardens, or kitchen gardens, would essentially be smaller plots located adjacent to residents’ homes wherein residents could grow food they individually wanted to produce. This could give residents space to explore and experiment with growing new kinds of food that there may not be large demand for within the community or that are known to take over an entire plot if given the opportunity. Having an individual plot of land to cultivate would also give each resident an added sense of ownership over their

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58. Miewald & McCann, *supra* note 13, at 539–40.

59. See *Community First! Village*, *supra* note 3; *Frequently Asked Questions*, SQUARE ONE VILLAGES, <https://www.squareonevillages.org/opportunity-faq> (last visited Nov. 19, 2019) (stating that Opportunity Village has ten raised garden beds); QUIXOTE COMMUNITIES, <http://www.quixotecommunities.org> (last visited Nov. 19, 2019) (listing community gardens as a feature within the community).

60. Mark Bauermeister et al., *Community Gardens*, U. CAL. AGRIC. & NAT. RES., Sept. 2013, at 1–2, <https://anrcatalog.ucanr.edu/pdf/8499.pdf>.

61. *Id.*

62. *Id.* at 2.

63. *Id.* at 4.

work while providing additional food sources and environmental benefits associated with having a more diverse ecosystem.

Maintaining greenways and environmentally-friendly street landscaping, such as green streets, while not necessarily providing edible agriculture directly, would be additional ways to improve the ecology in agricultural tiny home communities. “A greenway is a long, narrow piece of land, often used for recreation[,] pedestrian[s,] and bicycle[s.]”<sup>64</sup> Green streets are a “stormwater management approach that incorporate vegetation (perennials, shrubs, trees), soil, and engineered systems (e.g., permeable pavements) to slow, filter, and cleanse stormwater runoff from impervious surfaces (e.g., streets, sidewalks).”<sup>65</sup> Depending on the type of vegetation maintained, incorporating green streets and greenways could benefit other agricultural features of the community by attracting pollinators and increasing biological diversity within the area.

Gardened Right-of-Way, or GROW streets, are “public right-of-ways that incorporate food production involving orchard-lined streets, fruit boulevards . . . , planting strips or tree lawns, and edible front yards.”<sup>66</sup> GROW streets would put agriculture at the heart of these tiny home communities in a very apparent way. These streets would increase food access and availability for residents by transforming what would otherwise likely be concrete-covered, underutilized spaces into edible, productive spaces.

Depending on the land involved and the location of the agricultural tiny home community, there may even be the ability to cultivate edible forest gardens.

Edible forest gardening is the art and science of putting plants together in woodland like patterns that forge mutually beneficial relationships, creating a garden ecosystem that is more than the sum of its parts. [Edible forest gardens can include] fruits, nuts, vegetables, herbs, mushrooms, other useful plants, and animals in a way that mimics natural ecosystems . . . [, creating] a beautiful, diverse, high-yield garden.<sup>67</sup>

Many perennial crops could be grown in an edible forest garden, reducing the amount of time and labor necessary to maintain a fruitful forest.<sup>68</sup>

Together, these features would create a highly-supportive, highly-productive community that would provide residents with stability, structure, and increased food security.

### 3. Examples of Established Tiny Home Communities for the Homeless

Tiny home communities have been developed in cities across the country as a means to combat homelessness. This section will examine a selection of these

64. *What is a greenway?*, GREENWAY, <https://www.greenway.org.au/about/what-greenway> (last visited Nov. 18, 2019).

65. *Learn About Green Streets*, EPA, <https://www.epa.gov/G3/learn-about-green-streets> (last visited Nov. 19, 2019).

66. STEPHEN LUONI ET AL., U. ARK. CMTY. DESIGN CTR., FAYETTEVILLE 2030: FOOD CITY SCENARIO 18 (2015).

67. *What is Edible Forest Gardening*, NAT'L FOREST GARDENING SCHEME, <http://nationalforestgardening.org/forest-gardening/forest-gardening-overview> (last visited Nov. 19, 2019).

68. *Id.*

communities. Some communities have been established for many years, such as Dignity Village in Portland, Oregon, while other are currently under development, including the New Beginnings Community in Fayetteville, Arkansas.

#### a. Dignity Village—Portland, Oregon

Dignity Village is “an intentional community for the homeless [, providing] year-round shelter and safety off the street for up to sixty people every night” in forty-three units, most of which were constructed out of recycled or reclaimed materials.<sup>69</sup> Dignity Village is frequently looked to as a model for establishing similar communities because of its long-standing history. It has continually existed with city approval longer than any other homeless village in the country.<sup>70</sup> Each unit in Dignity Village has a bed and a propane heater. “The dwellings [do not have in-unit] utility hook-ups[.] Few are connected to electricity; requests for electricity must be approved by membership vote, typically for a medical exception.”<sup>71</sup> The Village shares two communal sinks, one shower, and a number of port-a-lets.<sup>72</sup> Dignity Village is located on land owned by the City of Portland and operated democratically by community residents. Dignity Village, as a community, has been in existence since 2001, and the community has been at its current location since 2004.<sup>73</sup> Residents have a two-year residency maximum established by the city, but this can be extended under certain circumstances.<sup>74</sup> Unlike many transitional housing communities, Dignity Village also allows residents to share their units with a partner and keep pets.<sup>75</sup>

#### b. Washington State Communities

Numerous tiny home communities for the homeless have emerged over the past few years in Washington State. The Low Income Housing Institute (LIHI) is a non-profit organization, operating in Washington since 1991 and partnering with organizations to create tiny home communities since 2015.<sup>76</sup> LIHI operates tiny home villages in Seattle and Olympia.<sup>77</sup> “Each tiny house has electricity, [an] overhead light[,] and a heater. Each tiny house village has kitchen and restroom facilities, on-site showers and laundry, a counseling office, and a welcome/security hut where donations of food, clothing, and hygiene items can be dropped off.”<sup>78</sup>

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69. *About*, DIGNITY VILLAGE, <https://dignityvillage.org/about-2> (last visited Nov. 19, 2019).

70. *Id.*

71. *Id.*

72. *Id.*

73. *How Cities Launch Tiny House Villages to Shelter the Homeless*, EFFICIENTGOV (Jan. 16, 2018), <https://efficientgov.com/blog/2018/01/26/how-cities-launch-tiny-house-villages-shelter-homeless>.

74. DIGNITY VILLAGE, *supra* note 69.

75. *Id.*

76. *About*, LOW INCOME HOUSING INST., <https://lihi.org/about> (last visited Nov. 19, 2019).

77. *Id.*

78. *Tiny Houses*, LOW INCOME HOUSING INST., <https://lihi.org/tiny-houses> (last visited Nov. 19, 2019).

c. Community First! Village—Austin, Texas

Community First! Village in Travis County, Texas offers a unique and inspiring vision of what tiny home communities can be. Community First! sits on fifty-one acres of land just east of the Austin city limits and when complete will offer housing to nearly 500 residents.<sup>79</sup> The units within Community First! Village vary widely in design structure, offering numerous small cottage-style micro-homes and RV-home design iterations.<sup>80</sup> Community First! Village is not considered transitional housing; instead, it offers residents a permanent housing solution, so long as they continue to pay rent and abide by community rules and local laws.<sup>81</sup>

Community First! is operated by Mobile Loaves & Fishes, a non-profit organization based in Austin.<sup>82</sup> The amenities and services Community First! Village offers are extensive, including organic gardens; an art studio; a blacksmith and woodworking studio; medical facilities; laundry, restroom, and shower facilities; community kitchens; access to public transportation; walking trails; a community market; and outdoor wireless internet connection, among others.<sup>83</sup> Additional features and services are part of the Phase II expansion of the Community First! Village. These will include seven additional laundry and restroom facilities, seven additional outdoor kitchens, additional community gardens, a community clinic, a respite care center, an outdoor event center, a community work space, and more.<sup>84</sup>

Community First! also “provides micro-enterprise opportunities that enable [residents] . . . to earn a dignified income” through its Community Works program.<sup>85</sup> Through Community Works, residents have the opportunity to work on-site in jobs such as gardening; providing car care; or working at the Community’s Bed and Breakfast, the Community Inn.<sup>86</sup> These job opportunities are mutually beneficial. The community benefits by having residents perform these services. The residents benefit by learning new skills and having the ability to contribute to their community. In 2018 alone, residents earned “more than \$600,000 in [d]ignified [i]ncome [d]istributed through [Mobile Loaves & Fishes’] Community Works program[.]”<sup>87</sup>

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79. *Community First! Village*, *supra* note 3.

80. *Id.*

81. *Is Community First! Village considered transitional housing?*, *Frequently Asked Questions*, MOBILE LOAVES & FISHES, [https://mlf.org/faq\\_category/living-at-community-first-village](https://mlf.org/faq_category/living-at-community-first-village) (last visited Nov. 19, 2019).

82. MOBILE LOAVES & FISHES, <https://mlf.org> (last visited Nov. 19, 2019).

83. *Community First! Village*, *supra* note 3.

84. MOBILE LOAVES & FISHES, <https://mlf.org> (last visited Nov. 19, 2019); *See What services are available to those living in Community First! Village?*, MOBILE LOAVES & FISHES, <https://mlf.org/faq-items/services-available-living-community-first-village> (last visited Nov. 19, 2019).

85. *Community Works*, MOBILE LOAVES & FISHES, <https://mlf.org/community-works> (last visited Nov. 19, 2019).

86. *See About the Community*, MOBILE LOAVES & FISHES: COMMUNITY INN, <https://communityinn.mlf.org/about-us> (last visited Nov. 19, 2019)

87. *About Us*, MOBILE LOAVES & FISHES, <https://mlf.org/us> (last visited Nov. 19, 2019).

#### d. New Beginnings Community—Fayetteville, Arkansas

Ground was recently broken to begin development of the New Beginnings Community in Fayetteville, Arkansas. New Beginnings will be a transitional housing community operated by Serve Northwest Arkansas (Serve NWA), an organization founded and operated by Dr. Kevin Fitzpatrick, a leading researcher and academic studying homelessness and an advocate for the homeless community.<sup>88</sup> The anticipated opening date for New Beginnings is Fall 2019.<sup>89</sup>

The New Beginnings Community will be a bridge community, providing residents with case managers and a range of services to support their transition from homelessness to community members in permanent housing from day one.<sup>90</sup> Through the social services offered by the Serve NWA and community staff and by working to build social relationships with local community members, residents will be able to get “on-ramp” assistance to transition from homelessness to living in a community with others as well as “off-ramp” services and support to smooth the transition to permanent housing.<sup>91</sup>

Each sleeping unit at New Beginnings will consist of a 170 square foot tepee-style structure. Inside the tepee, each resident will have a bed, a desk, LED lights, storage space, a screened window, a glass door, a USB outlet, and air conditioning and heating.<sup>92</sup> The community will have shared common spaces, including communal kitchen facilities, outdoor living spaces, a community hall, shower and restroom facilities, a dog yard, and a community garden.<sup>93</sup>

The community garden will be incredibly important for the New Beginnings Community, as residents’ involvement in food production and preparation are key components of Fitzpatrick’s vision for the community.<sup>94</sup> Fitzpatrick plans to implement a three-pronged approach to food within the New Beginnings Community.<sup>95</sup> The first prong involves the community garden.<sup>96</sup> All residents will be required to participate in cultivating the garden as part of their commitment to being a community member.<sup>97</sup> The second prong involves developing a commercial-like kitchen in which community members will learn to prepare food as a means to foster a farm-to-table appreciation of, and connection to, the land and their community.<sup>98</sup> The third prong involves education on food production, food preparation, nutrition, and food safety.<sup>99</sup> Ideally, Fitzpatrick would like to involve members from the local community by having local chefs and others

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88. See Bethany Dedman, *UA Professor Plans Homeless Housing Project*, UA TRAVELER (Oct. 24, 2017), [http://www.uatrav.com/news/article\\_fa01810e-b91d-11e7-9fc9-53b7d1893fdc.html](http://www.uatrav.com/news/article_fa01810e-b91d-11e7-9fc9-53b7d1893fdc.html) (discussing the formation of ServeNWA and the New Beginnings Community).

89. *New Beginnings bridge housing community*, SERVE NWA, <https://servenwa.org/new-beginnings-community> (last visited Nov. 18, 2019).

90. *Id.*

91. Interview with Dr. Kevin Fitzpatrick, U. Ark., University Professor, in Fayetteville, Ark. (Mar. 27, 2019).

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*



involved in food preparation, production, and processing visit and speak with residents about these issues and provide training.<sup>100</sup> Involvement from, and connection to, the local community is something Fitzpatrick sees as vital to the success of the New Beginnings Community and the ultimate success of New Beginnings Community members in their lives after New Beginnings.<sup>101</sup> By forming ties and promoting bonds with the local community, members will have stronger foundations and support networks as they assimilate back into society at large.

These examples demonstrate the wide range of forms tiny home communities for the homeless can take and provide models for development of future communities.

### *B. Benefits and Challenges to Creating Agricultural Tiny Home Communities*

#### 1. Benefits

Developing agricultural tiny home communities would have many benefits. Benefits would accrue both to the individuals living in these communities as well as the public at large. Certain benefits, such as providing housing for the unhoused and improving food security, are obvious. There are also less obvious benefits, some of which have been mentioned previously, including improving environmental biodiversity, providing job-skill training, and a range of social benefits.

Providing homes for those experiencing homelessness is a clear and primary benefit generated by agricultural tiny home communities. Having a safe and stable place to sleep at night provides a sense of security for those experiencing homelessness. With that security, it is easier for individuals to address and manage other struggles in their lives.<sup>102</sup> The “Housing First” model is an approach to combatting homelessness that emerged in the 1990s based around this idea.<sup>103</sup> It is an approach that prioritizes addressing an individual’s housing needs as the primary concern, making other issues such as finding employment and dealing with substance abuse secondary.<sup>104</sup> The Housing First approach has been incredibly successful and demonstrates the important role stable housing plays in keeping individuals from returning to homelessness.<sup>105</sup>

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100. *Id.*

101. *Id.*

102. See NAT’L ALL. TO END HOMELESSNESS, FACT SHEET: HOUSING FIRST (2016), <http://endhomelessness.org/wp-content/uploads/2016/04/housing-first-fact-sheet.pdf> (providing information on the effectiveness of the Housing First approach).

103. See 1.2. *The History of Housing First*, HOUSING FIRST EUR. HUB, <https://housingfirsteurope.eu/guide/what-is-housing-first/history-housing-first> (last visited Nov. 19, 2019) (discussing the evolution of the Housing First model).

104. *Id.*

105. *Id.*

### a. Increased Food Security

Agricultural tiny home communities would increase food security for community residents by providing multiple sources of food production. Access, availability, and affordability would all be improved. Adequacy in terms of selection and quantity would likely be improved as well. With greater consumption of fruits and vegetables instead of reliance on pre-packed foods, the quality of residents' food would increase. Because community members would be responsible for planting and growing their own food, they would have the ability to control how these gardens were cultivated. Using organic farming practices would reduce exposure to, and consumption of, pesticides.

### b. Job Skills Training

The skills involved in producing and preparing food are valuable job skills. Having the ability and the requirement to be involved in these activities provides an opportunity to help community members learn new skills and improve upon those they already have. It also provides opportunities to gain work experience, which all employers seek. Furthermore, showing up and performing a task as a condition of community membership shows dedication and the ability to follow through, both of which are qualities employers seek. Working with others to cultivate gardens requires teamwork as well, an essential employment skill. Excess food produced could be sold, creating an economic benefit and potential business opportunity while developing entrepreneurial skills. So, while residents would be learning useful hard skills, they would be concurrently gaining and improving soft skills which make them more marketable to employers.

### c. Improve Blighted Areas

Establishing communities in areas of cities and towns that are not currently optimally used could substantially improve blighted areas in much the same way community gardens have. There is a NIMBY (“not in my backyard”) attitude in some places that those experiencing homelessness will come in and ruin pristine areas, but this is an unfounded fear. Homeless communities typically look for discretion and try to locate near public services.<sup>106</sup> Homeless populations are unlikely to seek residence in established neighborhoods and set up tent communities because it would not help them, and it would not provide the anonymity those experiencing homelessness often seek. Improving blighted areas also has the benefit of raising property values in surrounding areas.<sup>107</sup> This has been seen in cities across the country with the rise of community gardens on

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106. Interview with Stephen Luoni, Distinguished Professor, U. Ark., in Fayetteville, Ark. (Mar. 25, 2019).

107. Vicki Been & Ioan Voicu, *The Effect of Community Gardens on Neighboring Property Values*, 36 REAL EST. ECON. 241 (2008).

formerly run-down, vacant lots.<sup>108</sup> Developing these communities could thus have positive economic benefits for nearby property owners.

#### d. Environmental Benefits

These communities have the potential to create numerous environmental benefits. Producing a variety of crops improves biological diversity and soil-nutrient quality.<sup>109</sup> Processing and consuming food where it is grown also decreases transportation costs as well as packaging needs, reducing overall greenhouse gas emissions.<sup>110</sup> Communities could compost waste products and create green manure.<sup>111</sup> By reusing waste, byproducts that would otherwise need to be transported to waste-disposal sites could instead be used for beneficial purposes on site.<sup>112</sup> In doing so, both transport and land-use needs would be reduced.<sup>113</sup> Using urban agriculture practices “can also contribute to biodiversity conservation, particularly when native species are integrated into the system. These systems can offer additional ecological benefits in modifying the urban micro-climate by regulating humidity, reducing wind, and providing shade.”<sup>114</sup> Structures within the community could be built using environmentally-conscious construction methods and materials, reducing the community’s environmental burden and requiring fewer resources than many other forms of housing.<sup>115</sup> Having communities for those experiencing homelessness in centralized locations would also reduce distribution of waste throughout the city, as “trash and refuse will be adequately placed rather than dumped into parks, public areas, and creeks.”<sup>116</sup>

#### e. Social Justice Benefits

Developing tiny home communities, and agricultural tiny home communities particularly, could broaden the public’s perception of what acceptable housing consists of and the kinds of opportunities we can create as a society to help our neighbors experiencing homelessness. What we currently have is chaos. What these communities create is order, opportunity, and hope. Providing a viable means for those experiencing homelessness to address many of their most pressing problems while concurrently contributing to the communities in which

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108. *Id.* at 268 (2008) (finding that “[a]fter opening, gardens have a positive impact on surrounding property values, which grows steadily over time, and declines somewhat with garden area and distance to the garden.”); *A Garden That Grows More Than Food*, SUSTAINABLE AUSTIN BLOG (Sept. 19, 2017), <http://www.austintexas.gov/blog/garden-grows-more-food>; Juliet K. Stone, *Boston’s Neighborhood Gardens*, ALIMENTARIUM (Jan. 20, 2015), <https://www.alimentarium.org/en/magazine/society/boston%E2%80%99s-neighbourhood-gardens>; see *Cultivating Community Gardens*, LOCAL GOV’T COMM’N, <https://www.lgc.org/resource/community-gardens/> (last visited Nov. 19, 2019).

109. Sarah Taylor Lovell, *Multifunctional Urban Agriculture for Sustainable Land Use Planning in the United States*, 2 SUSTAINABILITY 2499, 2500 (2010).

110. *Id.* at 2501.

111. *See id.*

112. *Id.*

113. *Id.*

114. *Id.* (citations omitted).

115. *See* Wyatt, *supra* note 54, at 43.

116. *Id.*

they live would give residents the opportunity to live a dignified existence while receiving the support and structure necessary to develop the skills needed to reacclimatize to living as part of a community.<sup>117</sup>

#### f. Economic Benefits

Agricultural tiny home communities would also be a cost-effective strategy for addressing homelessness and food insecurity. While the costs for building these communities would vary widely depending on numerous factors, such as land prices, materials used to build community facilities, and services and amenities provided both in-unit and for communal use,<sup>118</sup> when considering the current costs of homelessness, these communities offer a resource-efficient solution. Supportive housing services, “defined as housing that combines building features and personal services to enable people to remain living in the community as long as they are able and choose to do so,” have been shown to be less costly than other public services or institutional settings such as jails, prisons, hospitals, mental hospitals, and shelters by wide margins.<sup>119</sup> The costs that homelessness places on society are incredibly high. One primary reason for this is that most homeless persons do not have health insurance or the ability to access and pay for primary care services.<sup>120</sup> This means that most go directly to the emergency room to receive medical attention.<sup>121</sup> This is an expense often borne by the public at large, as many hospital emergency departments are public services paid for through taxpayer dollars.<sup>122</sup>

A 2011 study examining the relationship between food insufficiency and use of health services by those experiencing homelessness found that those who were food insufficient<sup>123</sup> were more likely to be hospitalized for any reason, more likely to use psychiatric services, and more likely to go to the emergency room than those who were food sufficient.<sup>124</sup> The study found that “hospitalization and

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117. *Id.* at 40–41 (recounting the interviewer’s conversation with a resident of Dignity Village regarding the intangible benefits of living in such a community, and stating, “[h]e told me in a phone conversation shortly after that witnessing the transformation in confidence and interpersonal social skills of residents was amazing. Some residents, he said, came into the group unable to piece together a sentence at first. Then after working together could eloquently testify at city council meetings. ‘It took a few years of hand holding,’ he said, but at some point residents stepped into community sufficiency.”).

118. *See, e.g.,* Jenny Xie, *10 tiny house villages for the homeless across the U.S.*, CURBED (Jul. 18, 2017), <https://www.curbed.com/maps/tiny-houses-for-the-homeless-villages> (listing the costs involved in developing ten tiny home communities for the homeless across the United States).

119. LEWIN GROUP, COSTS OF SERVING HOMELESS INDIVIDUALS IN NINE CITIES 1–5, 7 (2004), [https://d155kunxf1aozz.cloudfront.net/wp-content/uploads/2011/12/Report\\_CostforIndividuals1.pdf](https://d155kunxf1aozz.cloudfront.net/wp-content/uploads/2011/12/Report_CostforIndividuals1.pdf).

120. *The Cost of Homelessness Facts*, GREENDOORS, <https://www.greendoors.org/facts/cost.php> (last visited Nov. 19, 2019).

121. *Id.* (“Nearly one-third of all visits to the emergency room are made by people struggling with chronic homelessness,” with the average person experiencing homelessness making five visits to the ER annually and the most frequent ER users visiting weekly. Additionally, “[e]ach visit costs \$3,700; that’s \$18,500 spent per year for the average person and [\$192,000] spent per year for the highest users of emergency departments . . . [And] 80% of emergency room visits made by people struggling with homelessness [are] for an illness that could have been treated with preventative care.”).

122. *Id.*

123. Food insufficient, here, means solely that respondents did not have an adequate quantity of food.

124. Travis Baggett et al., *Food Insufficiency and Health Services Utilization in a National Sample of Homeless Adults*, 26 J. GEN. INTERN. MED. 627, 630–31 (2011).

[emergency department] use rates among food insufficient adults [] were about five times higher than those seen among adults in the U.S. general population.”<sup>125</sup> Food insufficiency rates were significantly higher among homeless population respondents than among the U.S. population generally—six times higher “and more than double that seen among impoverished Americans.”<sup>126</sup> This suggests that with improved food sufficiency, rates of public-health-service use decrease. Agricultural tiny home communities, then, by providing increased access to sufficient food sources, could serve as a means to aid in decreasing the costs brought about by frequent use of public health services.

## 2. Challenges

The process of developing agricultural tiny home communities for the homeless would likely be met with certain challenges. Some of the most prominent challenges will be discussed here.

### a. Potential NIMBY-ism

As mentioned, NIMBY-ism could be an obstacle in terms of finding a location where the local atmosphere is accepting of this kind of community. Many of the cities where tiny home communities for the homeless have been established are known for their progressive, socially conscious stances, so setting up communities in these places may have been met with less resistance than other locales. However, through education regarding the many benefits these communities would bring, and by involving the larger community from an early stage, these hurdles could likely be overcome.

### b. Cost-Related Challenges

Another challenge would be related to the costs of building such communities. Questions about whether more could be done with the resources or whether structures could be built which would house more people for less or in bigger spaces would likely arise. Essentially, these questions ask whether this would be a cost-effective strategy for combatting homelessness and food insecurity. Given the current costs homelessness places on society and the success stories of tiny home communities in cities around the country, this seems to be an effective way of helping those experiencing homelessness change their lives. It is certainly possible that one could build a basic larger structure that could house more people, but the sense of community and ownership that tiny home villages provide are unique features to this approach. Adding a focus on agriculture creates the ability to reduce dependence on outside sources for food while strengthening food security and food sovereignty<sup>127</sup> among residents, in addition to the host of benefits previously mentioned.

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125. *Id.* at 631.

126. *Id.*

127. Nyéléni 2007 International Steering Committee, *Declaration of the Forum for Food Sovereignty*, Nyéléni, Mali (Feb. 27, 2007), [https://nyeleni.org/DOWNLOADS/Nyelni\\_EN.pdf](https://nyeleni.org/DOWNLOADS/Nyelni_EN.pdf) (defining “food

Related to the question of cost-effectiveness are the questions of how development of these communities would be funded and who would build them. Most current tiny home communities have been funded through private investments and donations, though some communities have also received government funding.<sup>128</sup> In terms of physical construction of community structures, many tiny home communities have relied heavily on volunteer organizations and community partnerships.<sup>129</sup> Partnerships could even be established with local college design and community-planning programs as well as high school carpentry programs to provide support in the design and construction processes, respectively. This would also connect to the important element of involvement from the outside community. By eliciting the help and input of the wider community, there would be a higher level of buy-in from the community at large, who would then want to see these communities succeed and be more invested in supporting their success.

### c. Administrative Challenges

Additional considerations would involve how the community would be staffed, filled, and operated. Would there be outside management, or would the community be self-managed? What would be the qualifications for community membership, and how would determinations be made? In the case of agricultural tiny home communities, would prior agricultural knowledge and experience be considered? Would the chronically homeless<sup>130</sup> receive preferential treatment in determining residency? Would “sweat equity” in building the community be considered? Would it be required? Would there be set limits on how long residents could stay? Would the community be transitional housing, like Dignity Village,<sup>131</sup> or provide permanent housing, like the Community First! model?<sup>132</sup> Some states set specific limits on the duration residents can stay in transitional housing, which could answer this question, but the other questions would need to be answered by the individual community. Making these decisions would likely be difficult, as different decisions would impact both the resident make-up and the ultimate culture of the community.

Once a community is established, the question of who would teach community members the skills necessary to maintain and cultivate the various forms of

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sovereignty” as “the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It puts the aspirations and needs of those who produce, distribute and consume food at the heart of food systems and policies rather than the demands of markets and corporations”).

128. See Xie, *supra* note 118 (explaining that communities such as Infinity Village in Nashville, Tennessee and A Tiny Home for Good in Syracuse, New York were funded through crowdfunding campaigns and donations, respectively, whereas The Cottages at Hickory Crossing in Dallas, Texas received over \$2.5 million in government funding).

129. *Id.*

130. “Chronic homelessness is used to describe people who have experienced homelessness for at least a year — or repeatedly — while struggling with a disabling condition such as a serious mental illness, substance use disorder, or physical disability.” *Chronically Homeless*, NAT’L ALLIANCE TO END HOMELESSNESS, <https://endhomelessness.org/homelessness-in-america/who-experiences-homelessness/chronically-homeless> (last visited Nov. 19, 2019). Over 88,000 people, nearly one-quarter of the total homeless population on a single night in January 2018, were considered chronically homeless. *Id.*

131. DIGNITY VILLAGE, *supra* note 3.

132. *Community First! Village*, *supra* note 3.

agricultural production will need to be resolved. Local community engagement and knowledgeable residents and community staff are key here. Once an initial group of residents has acquired the knowledge and skills necessary to initiate, keep, and maintain the gardens, these would be skills residents could pass on to new community members as older residents moved out and newer residents moved in. However, this raises another potential point of contention. Would it be asking too much of residents to require them to engage in agricultural production activities as a condition of community membership? Agricultural production can be labor-intensive work. Despite the stereotype that those experiencing homelessness are indolent or do not want to work, many in fact already hold jobs.<sup>133</sup> Would this be placing one more burden on an already over-burdened segment of the populace? While this is potentially a concern, in a community of any measurable size, this burden would be spread across all the members. Additionally, some forms of agriculture, such as edible forests, if properly established, would require little management and upkeep and instead would be relatively self-maintaining food sources.

#### d. Removing Physical Structures

Finally, in the case of non-permanent structures, what would happen when a community's permit with the city expires or it is determined that the community will no longer exist? Will the building materials and community structure simply wind up in landfills? This does not need to be the case. Innovative building designs, such as those created for the New Beginnings Community, can be developed precisely to address these potential dilemmas. The New Beginnings Community structures have been designed by the University of Arkansas Community Design Center with the specific idea that they can be dismantled and either taken to different locations or repurposed into other structures.<sup>134</sup> Designing buildings this way is both efficient—as it allows the community to use the same structures in the event that the community is forced to relocate—and environmentally friendly—as it provides an opportunity to upcycle materials for new purposes.

Consideration of these factors leads to the conclusion that, while development of these communities would not be without challenges, these challenges could likely be overcome with sufficient planning and social engagement. The wide-ranging and long-lasting benefits this approach provides warrant strong consideration when assessing the value and potential of this solution to the double-pronged issue of homelessness and food insecurity.

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133. Becky Hughes, *Working Homeless Population Grows in Cities Across the U.S.*, PARADE (Feb. 7, 2018), <https://parade.com/643064/beckyhughes/working-homeless-population-grows-in-cities-across-the-u-s>.

134. Interview with Stephen Luoni, *supra* note 106.

## VI. ANALYSIS OF LEGAL HURDLES, IMPLEMENTATION BARRIERS, AND THE ROLE OF LAWYERS

Where an agricultural tiny home community is sited matters, as laws and codes change from one location to the next. Municipalities are likely to have stricter regulations and place greater restrictions on building and development than unincorporated areas. This is because incorporating (becoming a municipality) gives local governments greater control over decisions about what can and cannot happen within their city. In the case of zoning, this freedom becomes particularly relevant. Zoning laws, building codes, and residential codes are the three main considerations that a group seeking to develop an agricultural tiny home community would need to consider. This Article will discuss each and will address potential workarounds and creative solutions which have been used in places around the country to reduce barriers to tiny-home community development. The role of lawyers in supporting these changes will also be considered.

### *A. Zoning*

Zoning is a system developed by governments to divide land into segments based on what the government considers compatible and incompatible uses.<sup>135</sup> The impetus behind the original zoning decisions was theoretically to protect public health and welfare.<sup>136</sup> Zoning laws typically determine the permitted uses, building requirements, and lot characteristics allowed in a given zone.<sup>137</sup> Zones are often established as residential, commercial, industrial, or agricultural districts.<sup>138</sup> Though frequently categories of zones do not overlap, they sometime do,<sup>139</sup> and mixed-use development is becoming more common.<sup>140</sup> Zoning creates primary, accessory, and conditional uses.<sup>141</sup> Primary uses are uses as of right.<sup>142</sup> This means that property owners may engage in the activity within that zone without needing specific permission from a government body.<sup>143</sup> Accessory uses are uses which are subordinate and incidental to the primary use on a property, meaning that the property owner must use the property for its primary use in order to engage in the accessory use.<sup>144</sup> Uses can also be approved by conditional-use permits. These

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135. Kristin Choo, *Plowing Over: Can Urban Farming Save Detroit and Other Declining Cities? Will the Law Allow It?*, 97 ABA J. 42, 44 (2011).

136. See Juliana Maantay, *Zoning, Equity, and Public Health*, 91 AM. J. PUB. HEALTH 1033, 1033, 1035–36 (2001) (discussing zoning, land use, and public health implications and social-equity considerations raised by zoning decisions).

137. Stephanie Maloney, *Putting Paradise in the Parking Lot: Using Zoning to Promote Urban Agriculture*, 88 NOTRE DAME L. REV. 2551, 2570–71 (2013).

138. *Id.* at 2571.

139. *See id.*

140. *See* Choo, *supra* note 135.

141. Maloney, *supra* note 137, at 2571.

142. *See* GREG KAMPTNER & ALBEMARLE COUNTY ATTORNEY'S OFFICE, Ch. 17 *Classifying Primary Uses and Determining Whether a Use is an Accessory Use* in THE ALBEMARLE COUNTY LAND USE LAW HANDBOOK, [https://www.albemarle.org/upload/images/Forms\\_Center/Departments/County\\_Attorney/Forms/LUchapter17-classifyinguses.pdf](https://www.albemarle.org/upload/images/Forms_Center/Departments/County_Attorney/Forms/LUchapter17-classifyinguses.pdf) (explaining the differences between primary and accessory uses in land-use zoning).

143. *Id.*

144. *Accessory Uses in Zoning*, EXTENSION (Jul. 10, 2013),



permits give the property owner the ability to deviate from what would normally be a prohibited use so long as conditions for the permit are met. Variances allow derogation from a zoning requirement as well. However, variances are typically provided when there is something unique about the piece of land that makes application of the zoning requirement impractical or would result in unnecessary hardship.<sup>145</sup> Finally, zoning can create floating and overlay districts.

Overlay districts allow for the creation of distinct regulations in an area that must be adhered to, in addition to the regulations of an underlying zone. They allow a community to tailor land use policy to fit their particular needs and desires. An overlay district can be as small as one or two blocks, or may be more extensive. Conversely, floating districts require that certain conditions must be met before the zoning is approved for a property. Rather than being delineated on a map, the zone “floats” until the development conditions are met, then the zone is added to a map.<sup>146</sup>

Zoning laws can create a number of hurdles for tiny home community development. Restrictions on lot sizes as well as minimum structure square footage requirements are two primary hurdles tiny home community developers face. These restrictions are often the product of underlying NIMBY-ism, prejudice, and efforts to relegate the poorest members of society to confined areas in undesirable parts of cities, as lot and structure sizes are typically arbitrary determinations with no inherent justification.<sup>147</sup> Nevertheless, such restrictions can create legal obstacles for tiny home communities.

Use restrictions must also be considered when thinking about how an agricultural tiny home community could be developed. Many cities have taken steps in recent years to promote the use and expansion of urban agriculture by passing zoning ordinances specifically allowing urban agriculture in various forms. Boston,<sup>148</sup> Cleveland,<sup>149</sup> and Seattle<sup>150</sup> have affirmatively committed to increasing urban agriculture production by amending their zoning laws to remove barriers to urban farming and by actively promoting urban agriculture. Some cities draw a distinction between agricultural activities engaged in primarily for profit and agricultural activities engaged in primarily for personal or communal consumption.<sup>151</sup> While the former may face heavier restrictions in terms of where and how it can be done, the latter is often permitted across all zoning districts.

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<https://articles.extension.org/pages/26498/accessory-uses-in-zoning>.

145. *Rezoning, Variance, or Conditional Use Permit: Which One Can Solve Your Zoning Problem?*, PROP. METRICS (Jan. 20, 2017), <https://www.propertymetrics.com/blog/2017/01/20/rezoning-conditional-use-permit-or-variance>.

146. Krista Evans, *Integrating tiny and small homes into the urban landscape: History, land use barriers and potential solutions*, 11 J. GEOGRAPHY & REGIONAL PLANNING 34, 41 (2018).

147. *Id.* at 36, 38.

148. BOS., MASS., ZONING CODE art. 89 (2019).

149. *Urban Agriculture Innovation Zone*, CLEVELAND, <http://planning.city.cleveland.oh.us/oc/ag.html> (last visited Nov. 19, 2019).

150. SEATTLE DEP'T OF CONSTRUCTION & INSPECTIONS, URBAN AGRICULTURE, (2017), <http://www.seattle.gov/DPD/Publications/CAM/cam244.pdf>.

151. *See* BALT. MD., ZONING CODE art. 32, § 1-314(j)(1) (2017) (defining urban agriculture as “the cultivation, processing, and marketing of food, with a primary emphasis on operating as a business enterprise. . .”).

Restrictions on animal husbandry also vary widely. Because zoning laws have such variation from one location to the next, this would be an important consideration for a group looking to develop an agricultural tiny home community.

### *B. Building and Residential Codes*

Building and residential codes can pose another challenge for tiny-house advocates. The International Building Code (IBC) is a model code developed by the International Code Council, which establishes minimum recommended standards and baselines that most governments generally follow.<sup>152</sup> The standards established in the IBC are created to address public health and safety concerns.<sup>153</sup> The International Residential Code (IRC) is a model code specifically concerned with residential dwellings, covering topics such as building, plumbing, and electrical requirements.<sup>154</sup> The use of the term “dwelling” here is relevant, as it creates a distinction from “sleeping units,” which the IRC does not claim to cover. All states but Wisconsin have incorporated some variation of the IRC into their own housing codes.<sup>155</sup>

“In order to address concerns associated with confined and cramped quarters, such as inadequate ventilation and fire hazards, building codes have established minimum square footage building requirements.”<sup>156</sup> Until recently, the IBC had set a minimum square footage for buildings at 120 square feet.<sup>157</sup> While this was recently lowered to just 70 square feet, many jurisdictions have not amended their codes to reflect the change in the IBC.<sup>158</sup> This means that many states still have codes requiring buildings to be at least 120 square feet. For those seeking to build tiny homes smaller than 120 square feet, this would be problematic.

Building codes may also be relevant when considering the kind of structures of individual housing units within the tiny home community. As noted, there are many kinds of tiny home models, one of which is a tiny home on wheels. For these types of tiny homes, building codes that “require[] permanently habitable structures to be on a permanent foundation”<sup>159</sup> could pose a challenge. These kinds of homes may create additional confusion, because there is no consensus on how they should be categorized. “[W]hether [they] should be regulated as homes, recreation vehicles (RVs), campers, mobile homes, manufactured units, or some new type of hybrid housing” is debatable.<sup>160</sup> For an entity seeking to comply with building codes, this lack of certainty could result in a costly mistake.

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152. *Overview of the International Building Code (IBC)*, INT’L CODE COUNCIL, <https://www.iccsafe.org/products-and-services/i-codes/2018-i-codes/ibc> (last visited Nov. 19, 2019).

153. *Id.*

154. *Overview of the International Residential Code (IRC)*, INT’L CODE COUNCIL, <https://www.iccsafe.org/products-and-services/i-codes/2018-i-codes/irc> (last visited Nov. 19, 2019).

155. Ciara Turner, *It Takes a Village: Designating “Tiny House” Villages as Transitional Housing Campgrounds*, 50 U. MICH. J. L. REFORM 931, 936–37 (2017).

156. Evans, *supra* note 146, at 38.

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.*

For non-permanent structures, there may be maximum limits on how long the structure is permitted to remain in a location at any one time.<sup>161</sup> Many governments also require such structures to be connected to municipal water and sewage systems.<sup>162</sup> For communities that share communal shower, restroom, and kitchen facilities, this too could be a hurdle.

### *C. Workarounds, Amendments, and the Role of Lawyers*

Arbitrary determinations about the size and space requirements for residential units could be amended to accommodate tiny home community development. The same is true for maximum density restrictions, setback requirements, and a variety of other property-related restrictions that, while potentially reasonable in some settings, are unnecessarily burdensome and do not serve the same function for these communities.

The 2018 IRC has been amended to include Appendix Q, which defines a tiny house as a dwelling that is 400 square feet (37 square meters) or less in floor area excluding lofts. Lofts have been defined in terms of area and headroom with significantly reduced requirements associated with stairs and means of egress. This official definition is important because it provides a legal basis for the housing type to be recognized by lending institutions and insurance agencies, a specific basis for a Certificate of Occupancy and perhaps most importantly a necessity for zoning codes to accommodate the tiny house building typology.<sup>163</sup>

Cities and states around the country have realized that the unique circumstances these communities raise warrant special consideration and have crafted codes, resolutions, and zoning laws to reflect those circumstances and the city's support for these communities.

Oregon has a statute specifically concerning transitional housing development.<sup>164</sup> This statute permits up to two transitional housing campgrounds per municipality.<sup>165</sup> The law states that “[t]he person establishing the accommodations may provide access to water, toilet, shower, laundry, cooking, telephone or other services either through separate or shared facilities.”<sup>166</sup> In stating, “[t]o the extent deemed relevant by the Department of Consumer and Business Services, the construction and installation of [housing units] on campgrounds used for providing transitional housing accommodations established under this section is subject to the manufactured structures specialty code described in ORS 446.155 (Sanitation and safety requirements),”<sup>167</sup> the law inherently considers that derogation from the State's safety and sanitation requirements for residential properties may be permitted. This recognition by the

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161. *See id.* at 39.

162. *Id.* at 38.

163. Johnson, *supra* note 28, at 676.

164. OR. REV. STAT. § 446.265 (1999).

165. *Id.* § 446.265(5).

166. *Id.* § 446.265(1).

167. *Id.* § 446.265(4).

State that these communities may have different needs and capabilities is incredibly important. These allowances created by the statutory language provide significantly more opportunities for communities to develop in a way that addresses their needs and fits within their resources, rather than having to comport with a one-size-fits-all model that is impractical, unnecessary, and wastes already-stretched resources.

The City of Seattle has also created zoning laws allowing transitional encampments as an interim use.<sup>168</sup> The requirements to obtain an interim-use permit listed in the Seattle zoning laws are substantially more detailed than Oregon's transitional housing statute, placing specific requirements on the location of encampments,<sup>169</sup> their operation,<sup>170</sup> and time limits on the siting for encampments,<sup>171</sup> among others.

These examples above provide potential frameworks, which could be used and altered to meet the needs of local populations.

The role of a lawyer can, and should, be that of a public servant. Where we see laws and systems creating injustice or otherwise serving the primary purpose of stagnating the opportunities of others, we should seek to amend them. Those experiencing homelessness are among the most vulnerable members of the population. We, therefore, have an ethical obligation to use our training and the strength of our voices to protect this group. Creative opportunities exist to craft new zoning laws that specifically consider these types of communities. With the increasing lack of affordable housing in this country and the rise in interest in urban agriculture, there could be significant momentum and support for this kind of community. As lawyers, we should use this momentum to propose and support new policies and amend old policies to propel this movement forward.

## VII. CONCLUSION

Food insecurity and homelessness are individually unique problems which frequently overlap. Agricultural tiny home communities offer a solution to address these problems concurrently. Tiny home communities for the homeless have been established and continue to emerge in cities across the United States. These communities offer a cost-effective means to provide homes for the unhoused. Agricultural tiny home communities would create social, environmental, and economic benefits. Rather than relegating the most vulnerable members of the population to undesirable locations within a region, these communities have the potential to improve blighted areas, house the unhoused, and increase food security. Zoning laws and building and residential codes could pose challenges to development of such communities. However, opportunities exist to create new laws and reimagine existing policies to remove such barriers. Creative thinking and commitment to social justice will be necessary. As lawyers, we have both the obligation and the tools to impact existing power structures and help those who often cannot help themselves. We must use our powers for good.

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168. SEATTLE, WASH., MUN. CODE § 23.42.056 (2015).

169. *Id.* § 23.42.056(B).

170. *Id.* § 23.42.056(C).

171. *Id.* § 23.42.056(E).