



**RECOMMENDATIONS FOR  
A HEALTHY CORNER STORE INITIATIVE IN  
SHELBY COUNTY, TENNESSEE**

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## I. Introduction

Within the past decade, cities throughout the country have begun to implement policies and programs to address food access disparities in their communities. Several cities have piloted “healthy corner store initiatives,” innovative policy strategies where cities encourage or require corner stores to stock healthy foods in places where access to nutritious food is insufficient. In recent years, Baltimore, Louisville, Minneapolis, New York City, Philadelphia, Providence, San Francisco, and St. Louis have piloted healthy corner store initiatives. This report draws on data collected from individuals that implemented the initiatives in these cities and provides recommendations for a healthy corner store initiative in Shelby County.

The Food Advisory Council for Memphis and Shelby County has expressed interest in enacting a healthy corner store initiative. In Shelby County, 22 percent of adults are considered “food insecure,” defined as not having adequate access to food during the past year.<sup>1</sup> There are large areas with few supermarkets and some areas with no supermarkets, making it hard for residents in these neighborhoods to purchase groceries.<sup>2</sup> Limited food access affects the city’s low-income neighborhoods in particular.<sup>3</sup> According to the U.S. Department of Agriculture (USDA), 45 of the 285 census tracts in Shelby County are “food deserts,”<sup>4</sup> defined as low-income communities that have “low levels of access to a grocery store or healthy, affordable food retail outlet.”<sup>5</sup>

Low food access leads to public health problems, as communities that lack supermarkets suffer from greater rates of obesity than those communities that have a source of healthy food.<sup>6</sup> In Shelby County, 35 percent of adults are obese,<sup>7</sup> contributing to an annual \$3.6 billion spent on obesity-related care in Tennessee annually.<sup>8</sup> As seen in many U.S. communities, obesity and hunger come hand-in-hand in Memphis, likely because cheap food full of empty calories is readily available, while healthy, fresh food is harder to access.<sup>9</sup> Notably, 2010 Gallup Poll ranked Memphis as the worst city in the nation for hunger, with 26

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<sup>1</sup> *Shelby County, Tennessee, COUNTY HEALTH RANKINGS & ROADMAPS*, <http://www.countyhealthrankings.org/app/tennessee/2014/rankings/shelby/county/outcomes/overall/additional> (last visited July 31, 2014).

<sup>2</sup> ELLEN HOLTZMAN, MIRIAM MANNON & DAVID TREERING, *FOOD FOR EVERY CHILD: THE NEED FOR MORE SUPERMARKETS IN TENNESSEE 2* (Apr. 2011), available at [http://policylinkcontent.s3.amazonaws.com/Tennessee\\_mappingHighRes%20\(2\)\\_0.pdf](http://policylinkcontent.s3.amazonaws.com/Tennessee_mappingHighRes%20(2)_0.pdf).

<sup>3</sup> *Id.* at 6.

<sup>4</sup> U.S. DEP’T. OF AGRIC., AGRIC. MKTG. SERV., *DESIGNATED FOOD DESERT CENSUS TRACTS 112-113*, available at <https://apps.ams.usda.gov/fooddeserts/TractBreakdown.pdf> (last visited Nov. 13, 2014).

<sup>5</sup> The U.S. Department of Agriculture, Department of the Treasury, and Department of Health and Human Services define census tracts as food deserts if they meet the following thresholds: “1. They qualify as “low-income communities”, based on having: a) a poverty rate of 20 percent or greater, OR b) a median family income at or below 80 percent of the area median family income; AND 2. They qualify as “low-access communities”, based on the determination that at least 500 persons and/or at least 33% of the census tract’s population live more than one mile from a supermarket or large grocery store (10 miles, in the case of non-metropolitan census tracts).” *Agricultural Marketing Service: Creating Access to Healthy, Affordable Food*, U.S. DEP’T. OF AGRIC., AGRIC. MKTG. SERV., <https://apps.ams.usda.gov/fooddeserts/foodDeserts.aspx> (last visited Nov. 13, 2014).

<sup>6</sup> SARAH TREUHAFT & ALLISON KARPYN, *THE GROCERY GAP: WHO HAS ACCESS TO HEALTHY FOOD AND WHY IT MATTERS 18* (2010), available at [http://thefoodtrust.org/uploads/media\\_items/grocerygap.original.pdf](http://thefoodtrust.org/uploads/media_items/grocerygap.original.pdf).

<sup>7</sup> *Shelby County, Tennessee, COUNTY HEALTH RANKINGS & ROADMAPS*, *supra* note 1.

<sup>8</sup> Justin G. Trogon, Eric A. Finkelstein, Charles W. Feagan, and Joel W. Cohen, *State- and payer-specific estimates of annual medical expenditures attributable to obesity*, *OBSIDITY* 20(1):214-20, 219 (Jan. 2012).

<sup>9</sup> FOOD RESEARCH & ACTION CTR., *FOOD INSECURITY AND OBESITY: UNDERSTANDING THE CONNECTIONS 2* (Spring 2011), available at [http://frac.org/pdf/frac\\_brief\\_understanding\\_the\\_connections.pdf](http://frac.org/pdf/frac_brief_understanding_the_connections.pdf).

percent of people in the Memphis Metropolitan Statistical Area reporting that they could not afford to buy food for their families in the last twelve months.<sup>10</sup>

Many residents in food deserts rely on fast food restaurants or corner stores for their food. While 90 percent of households in Shelby County have access to a vehicle,<sup>11</sup> many residents still frequent nearby corner stores to purchase meals, snacks, and drinks rather than driving to supermarkets to purchase these products. This could perhaps be because these stores are more convenient or provide a social center for the community. More consumer research on residents' use of corner stores will be helpful in implementing an initiative that reflects community needs. Unfortunately, many of these corner stores do not stock healthy food options for their customers.<sup>12</sup> Even when they do, healthy options are generally sold at a price that is much higher than what a supermarket would charge.<sup>13</sup> For example, a gallon of milk can cost upwards of seven dollars at a corner store, well above what it would cost in a supermarket.<sup>14</sup> In addition to efforts

to open more full-service grocery stores in low-income areas in Shelby County, a healthy corner store initiative can work with existing corner stores to serve a similar end: improve the food environment for Shelby County residents by increasing the availability of nutritious, affordable foods.

This report recommends strategies to design and implement a healthy corner store initiative in Shelby County, based on lessons learned from other cities across the country that have implemented these initiatives. The first section of this report provides a summary of best practices for designing and implementing a healthy corner store initiative. The second section outlines how to develop an ordinance that creates a healthy corner store initiative. The report includes a model ordinance that the Food Advisory Council can use as a starting point for advocating for a policy that establishes a healthy corner store initiative in Shelby County.

### *What is a corner store?*

For the purposes of this report, “corner stores” include these types of retailers:

- Convenience stores
- Gas stations selling food
- Pharmacies selling food
- Other small food vendors selling mostly packaged and pre-made food

### *What is not a corner store?*

For the purposes of this report, the following retailers are not “corner stores”:

- Large supermarkets
- Restaurants
- Mobile food carts and food trucks

<sup>10</sup> MEMPHIS AND SHELBY COUNTY FOOD ADVISORY COUNCIL WORKING GROUP, GOOD FOOD FOR ALL: THE NEED FOR A FOOD ADVISORY COUNCIL FOR MEMPHIS AND SHELBY COUNTY 5 (2012), available at [http://splashcreativeink.com/growmemphis/wp-content/uploads/2012/06/FAC\\_whitepaper\\_finalLR.pdf](http://splashcreativeink.com/growmemphis/wp-content/uploads/2012/06/FAC_whitepaper_finalLR.pdf).

<sup>11</sup> *Selecting Housing Characteristics, 2008-2012 American Community Survey 5-Year Estimates, America Factfinder*, U.S. DEP'T. OF COMM., U.S. CENSUS BUREAU, [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_5YR\\_DP04](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_5YR_DP04) (last visited July 31, 2014).

<sup>12</sup> *Healthy Corner Stores Q & A*, HEALTHY CORNER STORES NETWORK, <http://www.healthycornerstores.org/healthy-corner-stores-q-a> (last visited July 31, 2014).

<sup>13</sup> Hannah Sayle, *Unjust Deserts*, MEMPHIS FLYER (Aug. 26, 2010), <http://www.memphisflyer.com/memphis/unjust-deserts/Content?oid=2263963>.

<sup>14</sup> *Id.*

## II. Best Practices for a Healthy Corner Store Initiative

This section draws on interviews and research from healthy corner store initiatives across the country to provide three categories of best practices for creating a healthy corner store initiative. The first category details four strategies to increase supply of healthy foods in corner stores; the next category details strategies for increasing consumer demand for healthy foods in corner stores; and finally, the last category details best practices for the implementing agency to roll out a healthy corner store initiative.

### A. BEST PRACTICES TO INCREASE SUPPLY OF HEALTHY FOODS IN CORNER STORES

Healthy corner store initiatives have effectively increased the supply of healthy foods in corner stores in four main ways. Initiatives have provided financial incentives, trainings, and procurement assistance to encourage corner stores to supply healthy foods. They have also garnered storeowner input to understand the challenges and opportunities to increase healthy food options in corner stores.

#### 1. Engage with storeowners to build interest and understand their businesses.

In multiple cities, initiative staff reported that their biggest challenge was resistant, disengaged storeowners that often left their jobs and did not pass knowledge of the initiative on to their successors. For example, in the implementation phase of the New York City initiative, it was frequently difficult to reach the decision maker at a store, which made it more difficult to encourage them to carry healthier products.<sup>15</sup> In Philadelphia, a high rate of storeowner turnover coupled with participating storeowners that were not concerned with stocking healthy products, forced the initiative employees to spend much more manpower and time following up.<sup>16</sup> The Louisville initiative also saw high owner turnover rates; in one case, a storeowner left without notice shortly after agreeing to sell healthier products and did not tell the new owners anything about the initiative.<sup>17</sup>

To address this challenge, an initiative should aim to make storeowners feel like partners, both in improving the health of their communities and increasing their profits. Providence's Healthy Corner Store Initiative focused on determining the goal of each storeowner, whether that was to stock healthier alternatives to traditional corner store items or to convince more families to get their ingredients at the corner store for meal preparation at home.<sup>18</sup> For example, staff in Providence realized that many storeowners sell to particular ethnic populations.<sup>19</sup> Program staff thus sought to incorporate culturally-appropriate recipes as a part of implementation, creating a richer involvement among storeowners that were initially wary of implementation.<sup>20</sup> This sort of storeowner engagement encourages participation and also taps into the storeowner's knowledge of their customers' preferences and buying habits in the corner store. In Providence, insights from storeowners were considered even more helpful to implementation than customer surveys.<sup>21</sup>

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<sup>15</sup> Telephone Interview with Rachel Dannefer, N.Y.C. Dep't of Health & Mental Hygiene (Mar. 10, 2014).

<sup>16</sup> Email from Kenji Tabery, Project Manager, The Food Trust (Apr. 3, 2014) (on file with author).

<sup>17</sup> Telephone Interview with Sasha Belenky, Director of Healthy Actions, Greater Louisville YMCA (Mar. 13, 2014).

<sup>18</sup> Telephone Interview with Amelia Rose, Co-Director, Env'tl. Justice League of R.I. (Apr. 4, 2014).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

Louisville took a different approach, identifying storeowners who were immediately interested in the program and understood the economic potential of participating and the benefits to the community.<sup>22</sup> Looking at factors such as owner attitude and in-store capabilities, like the number of staff, the Louisville initiative prioritized these types of stores when first piloting the program.<sup>23</sup> By working with storeowners that have a high interest, more stores might be successful and serve as good models and competition to convince other stores to sell healthier items.

## 2. Provide financial incentives and resources to increase the stock of healthy foods.

Financial incentives can help to cover the costs that storeowners will incur as they make infrastructural improvements needed to carry healthier foods in their stores. Healthy foods can be either perishable, like milk, eggs, or produce; or nonperishable, like rice or canned vegetables. Stocking healthy nonperishable foods does not usually require special equipment. However, infrastructural barriers to stocking healthy perishable foods, like the lack of proper storage containers or refrigeration units, often prevent corner stores from stocking perishable items. For example, in Providence, dealing with spoilage was the top concern that storeowners cited when explaining their hesitation to participate in the city's healthy corner store initiative.<sup>24</sup> Healthy corner store initiatives have provided financial incentives to storeowners, like loans or grants, to reduce the financial burden of purchasing new equipment.<sup>25</sup>

In St. Louis, the Healthy Corner Store Project provided \$400 to stores to fund stands for produce.<sup>26</sup> In Louisville, participating stores were allocated \$15,000 for infrastructural improvements.<sup>27</sup> Initiatives elsewhere have supplied grants ranging from \$1,000 to \$5,000 for installing refrigeration and shelving units to \$30,000 to \$200,000 for more comprehensive store alterations.<sup>28</sup> One novel example of infrastructural change was in San Francisco, where the program adopted the "sushi model of produce delivery."<sup>29</sup> This means that the distributor dropping off food at corner stores is also responsible for "set-up, maintenance and spoilage," which saves the storeowner money because the distributor provides the refrigerator cases and other equipment, in addition to labor associated with maintenance.<sup>30</sup>

Memphis could also consider using the model of "award levels" that has been successful in incentivizing schools to improve their meals. The US Healthier School Foods Challenge grants monetary awards to

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<sup>22</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>23</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>24</sup> Telephone Interview with Amelia Rose, *supra* note 18.

<sup>25</sup> See, e.g., SUSTAINABLE CITIES INSTITUTE, BRINGING NUTRITIOUS, AFFORDABLE FOOD TO UNDERSERVED COMMUNITIES: A SNAPSHOT OF HEALTHY CORNER STORE INITIATIVES IN THE UNITED STATES 12 (Feb. 2014), available at [http://www.sustainablecitiesinstitute.org/Documents/SCI/Report\\_Guide/ResearchBrief\\_HealthyCornerStoresSCI\\_Final1.pdf](http://www.sustainablecitiesinstitute.org/Documents/SCI/Report_Guide/ResearchBrief_HealthyCornerStoresSCI_Final1.pdf); Barbara LaBoe, *Grants help improve produce offerings at neighborhood stores*, TDN, (Jan. 15, 2013, 10:15 PM), [http://tdn.com/news/local/grants-help-improve-produce-offerings-at-neighborhood-stores/article\\_e412c3ec-5f83-11e2-825b-001a4bcf887a.html](http://tdn.com/news/local/grants-help-improve-produce-offerings-at-neighborhood-stores/article_e412c3ec-5f83-11e2-825b-001a4bcf887a.html).

<sup>26</sup> Telephone Interview with Kara Lubischer, Community Development Specialist, St. Louis Healthy Corner Store Project (Mar. 12, 2014).

<sup>27</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>28</sup> THE FOOD TRUST, HEALTHY CORNER STORES ISSUE BRIEF 1 (2011), available at [http://thefoodtrust.org/uploads/media\\_items/spring2011issuebrief.original.pdf](http://thefoodtrust.org/uploads/media_items/spring2011issuebrief.original.pdf) (herein "Food Trust Brief").

<sup>29</sup> Telephone Interview with Nickolas Pagoulatos, Senior Legislative Aide to Supervisor Eric Mar, City and County of S.F. Bd. of Supervisors (Mar. 21, 2014).

<sup>30</sup> *Id.*

schools that meet certain nutritional criteria for their meals.<sup>31</sup> There are four award levels that schools can meet (Gold Award of Distinction, Gold, Silver or Bronze level) and their monetary incentive depends on their tier.<sup>32</sup> Memphis could apply this model to a healthy corner store initiative by awarding stores that win the Gold Award with additional funding or equipment, such as a larger refrigerator or storage case, a salad bar, or other infrastructure improvements. The initiative could also help the Gold Award stores publicize their improvements to community members through local media, signage, and social media outreach, which could increase their sales and encourage other stores to change their offerings to compete with these stores.

### 3. Provide training and resources to storeowners to increase the stock of healthy foods.

Healthy corner store initiatives have also provided trainings to storeowners on offering more healthy options. Since many corner stores have not traditionally stocked healthy foods, storeowners might lack the knowledge and resources necessary to know how to stock healthy foods, to make them look appealing to consumers and ultimately profitable to storeowners. In San Francisco, “the greatest challenge in terms of time and effort was working with [the local merchant population] . . . [because] they were wary of committing to something that would require [them to] significantly alter their business model.”<sup>33</sup>

Cities have piloted several different types of trainings. St. Louis’s Healthy Corner Store Project hired three mentors with previous experience running convenience stores to help with implementation.<sup>34</sup> These mentors provided advice on how to successfully integrate healthy foods into a corner store’s business model by providing guidance on marketing, floor plans, and making connections with suppliers.<sup>35</sup> According to the community development specialist at the St. Louis Healthy Corner Store Project, these mentorship programs gave credibility to the initiative and significantly contributed to its overall success.<sup>36</sup> Philadelphia’s initiative also provided trainings for convenience storeowners, where the three most popular trainings were about display techniques, promotions and marketing, and produce handling and storage.<sup>37</sup> In Philadelphia, the initiative also offered trainings on core challenges that owners faced in stocking healthy products, including how to install equipment like shelving units and refrigeration.<sup>38</sup> Finally, Minneapolis’ initiative provided training on purchasing, pricing, stocking, and marketing healthy foods.<sup>39</sup>

Training and assistance may incentivize storeowners to carry more healthy foods, especially when the training curriculum is based on the needs of storeowners. As described in the next section, engaging with storeowners to understand their needs and businesses is key to the success of a healthy corner store initiative.

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<sup>31</sup> *Healthier US School Challenge Criteria - Application Criteria*, U.S. DEP’T OF AGRIC. FOOD AND NUTRITION SERV. (Feb. 25, 2014), <http://www.fns.usda.gov/hussc/healthierus-school-challenge-criteria-application-criteria>.

<sup>32</sup> Memorandum from Cynthia Long to State Child Nutrition Directors, *Healthier US School Challenge - Monetary Incentives* (Apr. 1, 2010), <http://www.fns.usda.gov/hussc/healthierus-school-challenge-criteria-application-criteria>.

<sup>33</sup> Telephone Interview with Nickolas Pagoulatos, *supra* note 29.

<sup>34</sup> Telephone Interview with Kara Lubischer, *supra* note 26.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Email from Kenji Tabery, *supra* note 16.

<sup>38</sup> *Id.*

<sup>39</sup> Telephone Interview with Kristen Klinger, Senior Public Health Specialist, Minneapolis Health Dep’t (Apr. 2, 2014).

#### 4. Provide assistance in procuring foods from distributors at a competitive rate.

Corner stores must purchase small volumes of food to stock, which increases their prices,<sup>40</sup> as in the milk example mentioned above. Corner stores are limited in the amount of food they can supply because of their small size and customer base. While large grocery stores with greater purchasing power purchase products in bulk at wholesale prices, most corner stores do not order in large enough quantities to be able to purchase at wholesale prices. Initiatives have addressed this issue in a variety of ways, including providing stipends to owners for healthy food purchases; aggregating small orders to get wholesale rates; and working with smaller-scale suppliers.

The D.C. Healthy Corner Store Program provides small stipends of about \$150 to defray some of the initial cost of purchasing healthy food.<sup>41</sup> However, this short-term strategy fails to address the issues of scale that make it difficult for corner stores to purchase food at wholesale prices.

In Providence, the initiative grouped multiple store orders together so that they could make one large order from a distributor at an economical rate.<sup>42</sup> In New York City, a 20,000 square-foot wholesale warehouse provides a large variety of foods, including fresh produce, meat and fish, to corner stores around the city.<sup>43</sup> The storeowners come to the warehouse as often as they want, and there is no minimum purchase amount.<sup>44</sup> This lowers the cost of the products, as there is no delivery fee.<sup>45</sup> The warehouse, in partnership with local non-profit organizations, has also started exhibiting model healthy produce displays at the front of the store, and plans to offer trainings for storeowners on how to store and display fresh produce.<sup>46</sup>

Another strategy is for initiatives to help corner stores connect with smaller suppliers of healthy foods. For example, a local farm might not grow enough produce to sell to a large grocery store, but their smaller weekly harvests throughout the growing season could be a manageable size for a corner store. Since this produce is fresher, it will also last longer on the store shelves. In New York, a nonprofit called GrowNYC has piloted a “farm-to-bodega” distribution model, where local New York farms supply an amount of produce that is feasible for a bodega (a corner store often associated with Hispanic groceries) to stock.<sup>47</sup> The pilot program also provides infrastructural support like refrigeration.<sup>48</sup> In Eugene, Oregon, a nonprofit collaborated with corner stores to start a seasonal farm stand that provides fresh produce to customers on a weekly basis in front of the store, which increases foot traffic in the store and purchases of other goods as well.<sup>49</sup> Similarly, a healthy corner store initiative could help corner stores become pick-up locations for farms that have community supported agriculture (CSA) programs.

If the store wants to sell a wider variety of products than one farm can offer, initiative staff can coordinate with a local food hub that aggregates products from different small suppliers and can

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<sup>40</sup> Food Trust Brief, *supra* note 28, at 1.

<sup>41</sup> *D.C. Healthy Corner Store Program*, D.C. HUNGER SOLUTIONS, [http://www.dchunger.org/pdf/cornerstore\\_brochure\\_english.pdf](http://www.dchunger.org/pdf/cornerstore_brochure_english.pdf) (last visited July 31, 2014).

<sup>42</sup> Telephone Interview with Amelia Rose, *supra* note 18.

<sup>43</sup> Winnie Hu, *Keeping Health in Stock at New York City's Bodegas*, N.Y. TIMES (June 16, 2014), <http://www.nytimes.com/2014/06/17/nyregion/new-york-city-bodegas-a-push-for-healthy-eating.html>.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Winnie Hu, *supra* note 43.

<sup>47</sup> Food Trust Brief, *supra* note 28, at 2.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

distribute a variety of these products to corner stores. In St. Louis, a food hub aggregates local produce and distributes it to corner stores at a reasonable price.<sup>50</sup>

Further, the initiative can help storeowners aggregate their orders of healthy foods. In Providence, the initiative worked with food cooperatives and associated buyers groups, who already purchase smaller quantities of healthy products and could add the orders of surrounding corner stores to their order.<sup>51</sup> In Memphis, the initiative could partner with a food hub or work with associated buyers groups to supply healthy corner store initiative participants with fresh produce at better prices.

A healthy corner store initiative that reduces the cost and increases the feasibility of supplying healthy foods in corner stores can incentivize storeowners to stock healthy foods. Further, reduced costs on the part of the storeowner can mean a reduced price for the customer to pay. Therefore, these innovative distribution chains benefit the customer as well as the storeowner, making the products more affordable and accessible to low-income individuals.

## **B. BEST PRACTICES FOR CREATING DEMAND FOR HEALTHY FOODS IN CORNER STORES**

Healthy corner store initiatives have also focused on increasing the demand for healthy foods in corner stores, so that customers are actually purchasing the new healthy offerings and storeowners are profiting from the initiative. In formulating strategies to create demand, initiative staff have considered: (1) how people use corner stores; (2) how to incorporate the community; (3) how to improve marketing; and (4) how to bring more customers into stores.

### **1. Understand the reasons why people shop at particular corner stores.**

In many food deserts in the U.S., residents cannot access healthy foods because they have no easy transportation options to full-service grocery stores that are further away. In Shelby County however, 90 percent of residents have access to a vehicle,<sup>52</sup> which might imply that these residents can more easily access grocery stores. Yet many residents still frequent nearby corner stores to purchase meals, snacks, and drinks rather than driving to supermarkets to purchase food. This could perhaps be because these stores are more convenient or provide a social center for the community. In implementing a healthy corner store initiative in Memphis, it will be important to determine why consumers frequent corner stores, what types of products they purchase, and what healthy foods would be appealing to the community if they were available.

In New York City, the Department of Health found that the success of the initiative was largely tied to understanding how the neighborhood used the bodega.<sup>53</sup> To best understand how bodegas were used and perceived, initiative staff visited each of the 1,000 or so participating stores three times.<sup>54</sup> Through interviews with consumers that were conducted during these visits, the staff found that it was important

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<sup>50</sup> CAROL COREN, ST. LOUIS FOOD HUB AND MOBILE MARKET: PRESENTATION FOR 2012 ILLINOIS SPECIALTY CROPS, AGRITOURISM AND ORGANIC CONFERENCE 2-4 (Jan. 11, 2012), *available at* <http://jhawkins54.typepad.com/files/coren-jan-11---building-up-supply-reaching-new-markets-revised-2.pdf>.

<sup>51</sup> Telephone Interview with Amelia Rose, *supra* note 18.

<sup>52</sup> *Selecting Housing Characteristics, 2008-2012 American Community Survey 5-Year Estimates, America Factfinder*, U.S. DEP'T. OF COMM., U.S. CENSUS BUREAU, [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_5YR\\_DP04](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_5YR_DP04) (last visited July 31, 2014).

<sup>53</sup> Telephone Interview with Rachel Dannefer, *supra* note 15.

<sup>54</sup> *Id.*

for the program to not treat bodegas interchangeably with grocery stores; consumers in New York have particular perceptions about bodegas, and these perceptions play a large part in influencing what they are willing to buy.<sup>55</sup> For example, the reputation of bodegas made it difficult to sell produce there, as consumers associated bodegas with packaged food and did not trust the cleanliness and safety of fresh produce sold at these stores.<sup>56</sup>

In response to these findings, New York City's Shop Healthy Initiative sought to stock healthier alternatives to existing offerings, like bottled water for sugar sweetened beverages, and whole wheat bread for white bread, rather than fresh produce.<sup>57</sup> The initiative also worked with storeowners to change customers' perceptions of their stores.<sup>58</sup> Subsequent visits included trainings for storeowners on how to stock healthier foods to make them look appealing and safe.<sup>59</sup>

The initiative in Louisville also emphasized the importance of understanding customers' expectations of particular stores.<sup>60</sup> A store in Louisville initially failed at selling healthy foods because "it was a convenience store attached to a gas station, and [they] found out that people don't want to buy fruits and vegetables at a gas station."<sup>61</sup> In addition, it was far from residential areas and thus hard to access by foot. While consumer preferences should influence what products stores offer, the initiative should also work to change consumer perceptions, normalizing the sale of healthy foods at places that do not typically sell them.

St. Louis creatively gathered the community's opinions and preferences about what healthy corner stores should sell. Some stores displayed large boards for customers to write down the foods they would purchase at the store, and provide feedback on the store's current offerings.<sup>62</sup> For example, one owner was frustrated that customers were not purchasing his watermelons.<sup>63</sup> Through customer comments on the board, the owner learned that his elderly customers were unable to carry whole watermelons.<sup>64</sup> After the storeowner sliced the watermelons, he sold out in two days.<sup>65</sup> In this way, initiative staff and storeowners in St. Louis used consumer input to ensure that what they stocked would be purchased. Understanding consumer expectations and preferences is an integral step in developing a successful healthy corner store initiative.

## 2. Engage with community leaders to publicize the initiative.

Successful healthy corner store initiatives have leveraged community networks and organizations to publicize participating stores' new offerings. For example, the staff in Louisville encouraged corner storeowners to go to local business association and church meetings to talk about their missions for their stores.<sup>66</sup> They found that communities in which neighborhood associations are strong are more

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<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> HEALTHY BODEGAS INITIATIVE, A PROGRAM OF THE DEP'T. OF HEALTH AND MENTAL HYGIENE, CEO INTERNAL PROGRAM REVIEW REPORT 8 (2009), available at [http://www.nyc.gov/html/ceo/downloads/pdf/BH\\_PRR.pdf](http://www.nyc.gov/html/ceo/downloads/pdf/BH_PRR.pdf).

<sup>60</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>61</sup> *Id.*

<sup>62</sup> Telephone Interview with Kara Lubischer, *supra* note 26.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

receptive to the Louisville initiative than communities with less-established neighborhoods associations, since communities with stronger associations were primed to understand the importance of supporting such local businesses and the beneficial outcomes for the community.<sup>67</sup>

Finally, several city leaders have helped to promote participating corner stores. For example, in Louisville, press conferences with aldermen celebrate the participation of new stores.<sup>68</sup> In New York City, stores that meet all criteria of the initiative receive a proclamation from the Bronx Borough President or a State Senator, baskets to display produce, fruit salad starter kits, and reusable shopping bags for consumers.<sup>69</sup> By helping to publicize the efforts of participating stores, city leaders can further increase profitability for stores. Surrounding corner stores might then feel that they need to stock healthier options to stay competitive with the publicized store, positively impacting the neighborhood's food environment more broadly.

### 3. Help to make corner stores more appealing for customers.

Healthy corner store initiatives have provided assistance, guidance, and funding to corner stores for infrastructure changes to make them more appealing and increase customer foot traffic in stores. There are several ways that initiatives have equipped stores with tools to market and sell their healthier foods.

First, façade improvements help to make corner stores a place people want to shop, and change the aforementioned stereotypes of corner stores as dirty or derelict stores. The Louisville initiative provides grant funding for any improvements to a corner store, such as patching up a wall.<sup>70</sup> In Minneapolis, one central goal of the city's initiative was to reduce crime, since corner stores were frequently sites of criminal activity.<sup>71</sup> Policymakers thus provided improved signage and better store lighting, in addition to requiring stores to stock healthier foods, in an attempt to increase foot traffic in these areas and mitigate criminal activity.<sup>72</sup>

Second, initiatives have covered the cost of marketing materials, educational programming, and community outreach. In Philadelphia, all participating stores displayed the same logo of certification that promoted their healthy status to customers.<sup>73</sup> These credentials serve as ways for storeowners to advertise their efforts and earn support from the community.<sup>74</sup> The initiative in Philadelphia also created a set of posters and promotional materials that corner stores can use for free to increase healthy food marketing and educate customers about the benefits of healthy foods.<sup>75</sup> Louisville also provides marketing materials for healthy foods that stores could use to replace advertisements for unhealthy foods.<sup>76</sup> The initiative in Providence focused on ensuring that healthy snacks are available to children and educating families about how to cook healthy food.<sup>77</sup> An offshoot program of the healthy

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<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Telephone Interview with Rachel Dannefer, *supra* note 15.

<sup>70</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>71</sup> Marice Ashe, *Should Cities Require Food Stores to Sell Healthy Food?*, SUSTAINABLE CITIES COLLECTIVE (Sept. 20, 2012), <http://sustainablecitiescollective.com/sustainable-cities-institute/67536/should-cities-require-food-stores-sell-healthy-food>.

<sup>72</sup> *Id.*

<sup>73</sup> THE FOOD TRUST, PHILADELPHIA'S HEALTHY CORNER STORE INITIATIVE 2010-2012 16 (2012), *available at* [http://thefoodtrust.org/uploads/media\\_items/hcsi-y2report-final.original.pdf](http://thefoodtrust.org/uploads/media_items/hcsi-y2report-final.original.pdf) (herein "Food Trust Initiative 2010-2012").

<sup>74</sup> Telephone Interview with Rachel Dannefer, *supra* note 15.

<sup>75</sup> Food Trust Initiative 2010-2012, *supra* note 73.

<sup>76</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>77</sup> *Healthy Corner Store Initiative (HSCI): February 2014 Update*, ENVTL. JUSTICE LEAGUE OF R.I. (Feb. 2014), <http://ejlri.org/our-work/healthy-corner-store-initiative/>.

corner store initiative in New York currently focuses on one neighborhood at a time with the aim of saturating it with programming and messaging about making healthier choices when shopping.<sup>78</sup> The program includes education and programming for residents at the library, doctors' offices, and schools.<sup>79</sup>

Third, initiatives have helped corner stores create outdoor displays of produce.<sup>80</sup> In some cities, regulations can pose restrictions on sidewalk obstructions that inhibit sidewalk displays of food products, making it illegal to display produce outdoors if it is in the way of a pedestrian path.<sup>81</sup> In Memphis, the city code states, "[N]o person shall knowingly engage in any activity, or place equipment in such a manner which impedes . . . pedestrian traffic on a public right-of-way,"<sup>82</sup> but outdoor sales are permitted with a special use permit.<sup>83</sup> Initiative staff could help stores get this permit, and also apply for existing resources for small businesses to improve building facades, such as the small business micro-loan program.<sup>84</sup>

Fourth, initiatives have assisted with installation of Electronic Benefit Transfer (EBT) machines so that convenience stores can accept Supplemental Nutrition Assistance Program (SNAP) benefits and incentivized consumers to purchase healthier foods with their SNAP and Women, Infant and Children (WIC) dollars. If a corner store does not accept SNAP, it may be losing out on potential customers, especially if it is located in a low-income neighborhood. Enabling more stores to accept SNAP benefits will not only benefit community members, but will also lead to more stores carrying staple foods. The 2014 Farm Bill requires food retail outlets that accept SNAP to stock at least three perishable staple food items (proteins, bread or cereals, vegetables or fruits, and dairy products),<sup>85</sup> so many corner stores that accept SNAP will have to increase their healthy options.<sup>86</sup> Under the Farm Bill, manual vouchers for SNAP benefits are also being phased out in favor of EBT cards.<sup>87</sup> Thus, new retailers must use an EBT system for SNAP transactions.<sup>88</sup> While the government cannot purchase EBT equipment for the stores,<sup>89</sup> a local government agency implementing a healthy corner store initiative could connect corner stores with resources to purchase this equipment.

Finally, an initiative could implement a "double bucks" program to incentivize SNAP recipients to purchase more healthy foods at corner stores. These programs serve to double a certain amount of a

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<sup>78</sup> Telephone Interview with Rachel Dannefer, *supra* note 15.

<sup>79</sup> *Id.*

<sup>80</sup> Food Trust Brief, *supra* note 28, at 5.

<sup>81</sup> Maurice Ashe et. al., *Local Venues for Change: Legal Strategies for Healthy Environments*, 35 J.L. MED. & ETHICS 138, 141-42 (2007) (discussing how the built environment affects the marketing of healthy foods).

<sup>82</sup> SHELBY COUNTY, TENN., CODE, ch. 32, art. II, § 21(b) (2011).

<sup>83</sup> THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, THE ZONING CODE AND SUBDIVISION REGULATIONS FOR THE CITY OF MEMPHIS AND UNINCORPORATED SHELBY COUNTY, art. 2, div. 6, § 3(N.1) (2010), available at <http://www.shelbycountyttn.gov/DocumentCenter/View/16482>.

<sup>84</sup> *Renaissance Business Ctr.*, THE CITY OF MEMPHIS, <http://www.memphistn.gov/Business.aspx/RenaissanceBusinessCenter.aspx> (last visited July 31, 2014).

<sup>85</sup> 2014 Farm Bill (Agricultural Act of 2014), Pub. L. No. 113-79, 128 Stat. 649 § 4002 (codified as amended at 7 U.S.C. 2012(p)(1)(A) § 3(p)(1)(A) (2008)).

<sup>86</sup> *Supplemental Nutrition Assistance Program Provisions of the Agricultural Act of 2014 - Implementing Memorandum to Regional Administrators of the Food and Nutrition Svc.*, U.S. DEP'T. OF AGRIC., FOOD AND NUTRITION SVC. 5 (Mar. 21, 2014), available at <http://www.fns.usda.gov/sites/default/files/SNAP%20Provisions%20of%20the%20Agricultural%20Act%20of%202014%20-%20Implementing%20Memo.pdf>.

<sup>87</sup> *Id.* at 1-3.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

recipient's SNAP dollars so that he or she can spend more money on healthy items. For example, in Michigan, the Fair Food Network's Double Up Food Bucks program matches the amount of SNAP funds that participants spend at farmers markets and grocery stores. In Detroit grocery stores, the program matches up to \$10 (if the participant spends \$10 SNAP dollars on fresh fruits and vegetables, they receive a \$10 Reward Card).<sup>90</sup> Shelby County could replicate this program by using either public or private funds to create a double bucks program for SNAP recipients that purchase healthy staple foods at corner stores. This would help to stretch customers' food budgets further, and would increase income for storeowners selling healthy staple foods.

## C. BEST PRACTICES FOR IMPLEMENTING A HEALTHY CORNER STORE INITIATIVE

While figuring out *what* a healthy corner store initiative will entail, initiatives must also consider *how* a program should be implemented. Successful programs have started small, carefully chosen which stores should participate, and partnered with like-minded organizations. These best practices helped to make these pilot stores successful and paved the way for scaling up to help more stores.

### 1. Start small.

The most successful initiatives occurred in cities that piloted their healthy corner store programs in a limited number of stores. As Kenji Tabery at the Food Trust in Philadelphia explained, "The key to success in creating healthier changes in stores are small, easy, gradual changes," especially changes that "build relationships with owners, provide technical support, and raise awareness among community members."<sup>91</sup> Philadelphia's healthy corner store initiative exemplifies how starting small with resource-intensive interventions allowed scaling up to be more successful: starting with a handful of stores in 2004, the program now works with over 600 participating stores.<sup>92</sup> The initiative in Louisville saw a similar phenomenon, where assisting one corner store in the first phase of the initiative helped to hone best practices to use when they expanded to more stores.<sup>93</sup> The San Francisco initiative focuses on three to five stores every year.<sup>94</sup> The Minneapolis initiative also focuses on a handful of stores every year, creating "gold standard" healthy corner stores that will hopefully encourage surrounding corner stores to also carry healthier foods in order to stay competitive.<sup>95</sup>

### 2. Strategically choose stores to pilot the initiative.

A healthy corner store initiative should select stores that are well situated and interested in selling healthy foods. Other initiatives have generally determined which stores to assist based on two criteria: need and storeowner's interest. An initiative should focus on corner stores located where the need is high, since a primary goal is to improve food access in areas where healthy options are limited. An initiative should also focus on stores that show interest in participating in a program.

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<sup>90</sup> *How It Works – At Most Markets*, FAIR FOOD NETWORK, <http://doubleupfoodbucks.org/how-it-works> (last visited Nov. 17, 2014).

<sup>91</sup> Email from Kenji Tabery, *supra* note 16.

<sup>92</sup> *Id.*; See, THE FOOD TRUST, HEALTHY CORNER STORE INITIATIVE OVERVIEW (2014), available at [http://thefoodtrust.org/uploads/media\\_items/healthy-corner-store-overview.original.pdf](http://thefoodtrust.org/uploads/media_items/healthy-corner-store-overview.original.pdf).

<sup>93</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>94</sup> Telephone Interview with Nickolas Pagoulatos, *supra* note 29; Jessica Kwong, *Corner store the first in Tenderloin to get a healthy makeover*, S.F. EXAMINER (Apr. 11, 2014), <http://www.sfexaminer.com/sanfrancisco/corner-store-the-first-in-tenderloin-to-get-a-healthy-makeover/Content?oid=2761287>.

<sup>95</sup> Telephone Interview with Kristen Klinger, *supra* note 39.

Cities have measured the need for a healthy corner store in a community using a variety of metrics. The San Francisco ordinance that established the initiative targeted communities with high rates of obesity, poverty, senior citizens, families with children, and lack of access to public transit.<sup>96</sup> Several other cities also targeted stores located in food deserts, low-income areas, or areas with a high prevalence of obesity and diabetes.<sup>97</sup> San Francisco partnered with existing groups that work in low-income communities to determine which communities were in need of healthier foods.<sup>98</sup> In Providence, the initiative chose a single neighborhood with low food access and asked all stores in that area to participate.<sup>99</sup> Philadelphia's initiative conducted an exhaustive search process, visiting over 2,000 potential corner stores before choosing a handful of stores to pilot the program.<sup>100</sup>

Next, a number of initiatives evaluated the storeowner's interest and capacity to participate in the initiative. The Healthy Corner Store Project in St. Louis solicits the community's help in identifying stores to participate. There, the initiative sends out letters to 300 potential community partners as part of an annual call for nominations.<sup>101</sup> In Louisville, the initiative also surveys the community, focusing on how communities related with storeowners.<sup>102</sup> Staff in Louisville also talk to owners to gauge their interest, learn if they have ample staff to implement the initiative, learn what products customers are currently purchasing to determine the sales potential of healthier products, and learn whether the stores accept SNAP.<sup>103</sup> After piloting its program, staff at the Louisville initiative recognized the importance of choosing stores that were near residential areas or schools that had high foot traffic; for example, one successful store was in the middle of a section eight housing complex, adjacent to a school.<sup>104</sup>

The Minneapolis program developed an application process for corner stores interested in being a part of the program.<sup>105</sup> Of the 13 stores that applied in the first year, nine were chosen based on criteria like location and proximity to other projects administered by the health department.<sup>106</sup> Developing an application process is one way to ensure that the participating stores will be dedicated to making the changes and taking full advantage of the incentives provided.

### 3. Choose like-minded partners.

The implementing agency should partner with community organizations that can provide additional resources and assist with outreach to raise awareness about participating stores.

The initiative in Minneapolis works with community groups, which hold cooking demonstrations and taste tests to show community members how to prepare healthy meals.<sup>107</sup> These community organizations also help with publicity.<sup>108</sup> In Philadelphia, the initiative collaborates with economic

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<sup>96</sup> Telephone Interview with Nickolas Pagoulatos, *supra* note 29.

<sup>97</sup> Telephone Interview with Rachel Dannefer, *supra* note 15; Email from Kenji Tabery, *supra* note 16; Telephone Interview with Nickolas Pagoulatos, *supra* note 29; Telephone Interview with Kara Lubischer, *supra* note 26.

<sup>98</sup> Telephone Interview with Nickolas Pagoulatos, *supra* note 29.

<sup>99</sup> Telephone Interview with Amelia Rose, *supra* note 18.

<sup>100</sup> Email from Kenji Tabery, *supra* note 16.

<sup>101</sup> Telephone Interview with Kara Lubischer, *supra* note 26.

<sup>102</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> MINNEAPOLIS DEP'T OF HEALTH AND FAMILY SUPPORT, MINNEAPOLIS HEALTHY CORNER STORE PROGRAM 5 (Feb. 2012), available at [www.health.state.mn.us/divs/oshii/docs/Mpls\\_Healthy\\_Corner\\_Store.pdf](http://www.health.state.mn.us/divs/oshii/docs/Mpls_Healthy_Corner_Store.pdf).

<sup>106</sup> *Id.*

<sup>107</sup> Telephone Interview with Kristen Klinger, *supra* note 39.

<sup>108</sup> *Id.*

development organizations, public health professionals, and city and government leaders.<sup>109</sup> Having this network allows the program to leverage resources and build comprehensive sustainable solutions.<sup>110</sup> Louisville’s Corner Store Network partners with other governmental and non-governmental organizations to implement the initiative.<sup>111</sup> In Providence, the initiative works with several collaborators – including state and municipal agencies, land trusts, education groups, and minority and women’s health non-profits – to engage the community and storeowners.<sup>112</sup>

Healthy corner store initiatives can also partner with school districts and educational groups by working to make stores near schools offer healthier products and incorporating nutrition education into the school curriculum. Because students in low-income areas often frequent corner stores to purchase after-school snacks,<sup>113</sup> a healthy corner store initiative can make a positive impact by encouraging healthier behaviors among these children. Recently, the Memphis Unified School District has worked to improve the nutritional quality of school meals and build school gardens, and might be open to introducing a curriculum on healthy eating and highlighting the new offerings at certain corner stores.<sup>114</sup> Also, the Memphis Boys and Girls Club started a Healthy Life Skills program aimed at teaching children about healthy eating,<sup>115</sup> and runs a Kid’s Café that provides healthy meals to low-income children.<sup>116</sup> These would be great venues to raise awareness among kids and parents about the initiative, and to get kids excited about the new healthy options.

Institutions of higher education in some cities have provided helpful research to assist healthy corner store initiatives. For example, Providence’s Healthy Corner Store Initiative has benefitted from having access to students from Brown University and the Rhode Island School of Design who “have [the] creative experience [required to] create a better looking produce display area.”<sup>117</sup> Likewise, the impetus for Louisville’s Corner Store Network was a study produced by the University of Louisville that identified twelve neighborhoods as food deserts.<sup>118</sup> In Memphis, educational institutions also might be able to provide research assistance.

### III. Structuring a Healthy Corner Store Initiative Ordinance

Healthy corner store initiatives can supply incentives and provide support to storeowners with or without a formal local policy or ordinance. The initiative in Providence, for example, was completely overseen by the non-profit organization that organized it, independent of any legislation.

However, an ordinance can codify and establish a healthy corner store initiative with the support and administrative resources of local government agencies. An ordinance thus makes the initiative more sustainable because it is not dependent on variable funding and resources from outside parties, like

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<sup>109</sup> Email from Kenji Tabery, *supra* note 16.

<sup>110</sup> *Id.*

<sup>111</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>112</sup> Telephone Interview with Amelia Rose, *supra* note 18.

<sup>113</sup> *What We Do: In Corner Stores*, THE FOOD TRUST, <http://thefoodtrust.org/what-we-do/corner-store> (last visited July 31, 2014).

<sup>114</sup> *Tony Geraci providing the fuel for better learning at Memphis City Schools*, MEMPHIS BUS. J., (June 15, 2012, 5:00 AM), <http://www.bizjournals.com/memphis/print-edition/2012/06/15/tony-geraci-providing-the-fuel-for.html>.

<sup>115</sup> Alexandra Williams, *Obesity is Walking Out of Memphis*, FOOD POLITIC (Feb. 23, 2013, 5:45 AM), <http://www.foodpolitic.com/obesity-is-walking-out-of-memphis>.

<sup>116</sup> *Id.*

<sup>117</sup> Telephone Interview with Amelia Rose, *supra* note 18.

<sup>118</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

non-profits or foundations that might have changing priorities. In addition, it benefits the Food Advisory Council to maintain working relationships with local policymakers and agencies, as this can lead to fruitful collaboration in other food policy areas. Finally, legislation allows policymakers to consider making the initiative mandatory and including support funding and enforcement mechanisms.

This section describes other cities' ordinances and identifies several key considerations that the Food Advisory Council should discuss as it develops an advocacy strategy for passing an ordinance. Specifically, this section aims to assist the Council in deciding:

- **Purpose:** What are the primary reasons that a healthy corner store initiative is needed in Shelby County? What problems does the Council seek to address through advocating for this ordinance?
- **Scope:** What types of stores does the Council want the ordinance to cover? What foods does it want healthy corner stores to offer, and are there unhealthy products it wants stores to stop selling? Are there other requirements it wants the stores covered by the ordinance to meet?
- **Optional or Mandatory:** Does the Council want the ordinance to be mandatory or voluntary? Should there be some required standards and then assistance and/or incentives for stores to exceed those standards?
- **Implementing Agency:** Which government agency should be responsible for implementing the ordinance?
- **Funding:** What parts of the ordinance should be funded? What are possible sources of funding, both for piloting the program and scaling up?
- **Progress:** What processes should be put in place to track the progress of the ordinance? What types of information and reporting would be most helpful for the Council?

As this section helps the Council consider these questions, it also includes model language for the potential ordinance. The entire model ordinance is located in Appendix II at the end of this report. If the Council decides to move forward on introducing this type of ordinance, they should obtain further advice to ensure the ordinance fits within the current local regulatory framework and is viable in the current political climate.

To start, the title of the ordinance might look like the following if introduced at the County level:<sup>119</sup>

ORDINANCE TO AMEND CHAPTER 8 OF THE SHELBY COUNTY CODE OF ORDINANCES BY CREATING A NEW ARTICLE [CODE NUMBER] "HEALTHY CORNER STORE INITIATIVE" REGARDING THE ESTABLISHMENT OF A HEALTHY CORNER STORE PILOT PROGRAM IN SHELBY COUNTY, TENNESSEE. SPONSORED BY COMMISSIONER [NAME].

The Food Advisory Council should work with County Commissioners to determine the specific details of the ordinance, which are currently left blank. Here, the ordinance amends Chapter 8 of the Shelby County Code (titled "Businesses and Business Regulations") because Chapter 8 currently promulgates a number of definitions, requirements, and mechanisms that regulate food establishments in Shelby

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<sup>119</sup> Unless otherwise noted, the text of the model ordinance is based on San Francisco's Healthy Food Retailer Incentives Program. S.F., CAL., ADMIN CODE, ch. 59 § 4(c) (2013). The authors found the San Francisco ordinance to be the most comprehensive and well-articulated example of this type of ordinance.

County.<sup>120</sup> However, the ordinance could also amend a different chapter of the code. County Commissioners will have the best sense of where to place the ordinance, and the Food Advisory Council can provide guidance for its content and its execution.

## **A. COMPONENTS OF A HEALTHY CORNER STORE INITIATIVE ORDINANCE**

An ordinance usually consists of opening statements, definitions, and the body of the ordinance. The opening statements explain why the ordinance is important and provide relevant background information, and the definitions clarify the scope of the ordinance. The body of the ordinance describes the healthy corner store initiative and how it will be implemented. This section will provide suggestions and help the Council consider how it would like to structure each section of the ordinance.

### **1. Opening Statements**

Local ordinances often begin with a series of statements that explain the background of the issue and any relevant findings that justify the ordinance's passage. In Shelby County and other municipalities, these statements usually begin with the word "Whereas." The Council should identify its primary reasons and goals for passing this ordinance, and highlight those in the Opening Statements. For political leverage, the Council should also consider if there are particular issues that key policymakers care about, and highlight those in this section (i.e. diet-related diseases, healthcare costs, economic benefits, etc.) The following are several examples of opening statements for a healthy corner store initiative ordinance:

WHEREAS, 22 percent of Shelby County residents are considered "food insecure", defined as not having adequate access to food during the past year; and

WHEREAS, 45 of the 285 census tracts in Shelby County are "food deserts", defined as low-income communities that have "low levels of access to a grocery store or healthy, affordable food retail outlet"; and

WHEREAS, 35 percent of adults in Shelby County are obese, and communities that lack supermarkets suffer from greater rates of obesity than those communities that have a source of healthy food; and

WHEREAS, many County residents frequent convenience stores that largely do not sell healthy, nutritious foods, and instead offer an abundance of unhealthy foods, tobacco and alcohol; and

WHEREAS, the offerings of these convenience stores undermine public efforts undertaken by government agencies such as the Memphis Unified School District and Shelby County Health Department to encourage residents to make healthy choices; and

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<sup>120</sup> Chapter 8 of the Shelby County Code includes definitions, requirements for permits to manufacture, sell, or distribute food, and requirements for certain establishments, including mobile food trucks and markets, and farmers markets. See SHELBY COUNTY, TENN., CODE, ch. 8, art. XVII (2011).

WHEREAS, The Food Advisory Council for Memphis and Shelby County has found that convenience stores would face a significant economic burden if they start to stock healthier foods without assistance; and

WHEREAS, The Shelby County Board of County Commissioners wishes to establish a program that would coordinate efforts to offer economic incentives and training to retail businesses in Memphis and Shelby County to encourage the sale of healthy foods in food insecure neighborhoods; and

[Depending on which agency is selected to implement the initiative, one of the follow clauses would be added:]

WHEREAS, The Shelby County Health Department can regulate the manufacturing, sale, and distribution of food in the County, and has implemented programs to promote healthy eating;

WHEREAS, The Community Redevelopment Agency in Memphis and Shelby County can offer economic incentives for the purpose of implementing approved programs and activities that upgrade and beautify properties throughout the County;

These statements justify the ordinance and refer to existing laws or agencies that may affect implementation of the ordinance. While these statements do not necessarily affect how an ordinance will be implemented, they are important because they outline the reasoning behind investing government resources in a healthy corner store initiative. They can also help convince County Commissioners to vote to pass the ordinance.

## 2. Definitions

### *a. Scope of Ordinance*

A set of definitions explains the terms that are used throughout an ordinance,<sup>121</sup> and thus has a large impact on the scope and impact of the ordinance. In developing its advocacy strategy, the Food Advisory Council should determine its primary goals and encourage definitions that align with those goals. The Food Advisory Council should consider several key questions: What types of stores does it want the ordinance to cover? What foods does it want healthy corner stores to offer, and are there unhealthy products it wants stores to stop selling? Are there other requirements it wants the stores covered by the ordinance to meet?

For example, the ordinance that established San Francisco's Healthy Food Retailer Incentives Program states that participating stores must devote at least 35 percent of selling area to healthy foods, cannot devote more than 20 percent of selling area to tobacco and alcohol products and must satisfy the

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<sup>121</sup> CHANGLAB SOLUTIONS, LICENSING FOR LETTUCE: A GUIDE TO THE MODEL LICENSING ORDINANCE FOR HEALTHY FOOD RETAILERS 4 (2013), available at [http://changelabsolutions.org/sites/default/files/Licensing\\_for\\_Lettuce\\_FINAL\\_20130212\\_0.pdf](http://changelabsolutions.org/sites/default/files/Licensing_for_Lettuce_FINAL_20130212_0.pdf).

minimum wage requirements outlined in the city’s administrative code.<sup>122</sup> Further, the ordinance defines “healthy foods” as “fresh produce, whole grains, lean proteins, and low-fat dairy products.”<sup>123</sup>

Defining “corner store” can also determine which stores are eligible and/or affected by the ordinance. For example, the Staple Foods Ordinance in Minneapolis affects stores with an area greater than 2,000 square feet,<sup>124</sup> while the Centers for Disease Control has defined a corner store as usually no more than 1,000 square feet.<sup>125</sup> In New York, only bodegas with an area less than 4,000 square feet were eligible to participate in the initiative.<sup>126</sup> In Memphis, the Council or County Commissioners should consider which stores they intend for the ordinance to affect, and then determine what range of square footage makes sense for the ordinance. They can also choose not to include a minimum or maximum size, keeping in mind that this will lead both the benefits and requirements created by the initiative to apply to all retail stores, as defined by the ordinance. Currently, the Shelby County Code defines the following types of food retailers:

- A *retail produce market* is defined as no more than 1,200 square feet for licensing purposes;<sup>127</sup>
- A *packaged-goods store* is defined as “a retail food establishment in which nonperishable food is stored, displayed and/or offered for sale in the packaged form and is intended for consumption off the premises. No meat market is included in the establishment, nor are fruits, vegetables and other produce routinely offered for sale.”<sup>128</sup> and
- A *retail market or grocery store* is defined as “a place of business where food and food products are stored, displayed and offered for sale to retail customers to be prepared or cooked elsewhere. Another type of business such as a meat market, restaurant, or bakery may be incorporated into the grocery store area but will not be included in this definition . . . <sup>129</sup> A grocery store or retail market “routinely sells fruits, vegetables or other produce and/or has a meat market.”<sup>130</sup>

Thus the ordinance could define a “healthy retail market” as one that sells a certain amount of fresh produce and staple foods. The definitions promulgated in an ordinance for Memphis might look like the following:

#### **Section 8-702. Definitions:**

For purposes of this article, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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<sup>122</sup> S.F., CAL., ADMIN. CODE, ch. 59 § 3 (2013), *available at* <https://sfgov.legistar.com/View.ashx?M=F&ID=2623379&GUID=929A0821-4749-4CA2-BB1F-42AFC4FB0107>.

<sup>123</sup> *Id.*

<sup>124</sup> MINNEAPOLIS, MINN. CODE, title 10, ch. 203 § 20(a) (2008).

<sup>125</sup> Joel Gittelsohn, Megan Rowan, & Preety Gadhoke, *Interventions in Small Food Stores to Change the Food Environment, Improve Diet, and Reduce Risk of Chronic Disease*, PREVENTING CHRONIC DISEASE (2012) (defining a corner store as having less than ten employees and less than 1,000 sq. ft. of area), *available at* [http://www.cdc.gov/pcd/issues/2012/11\\_0015.htm](http://www.cdc.gov/pcd/issues/2012/11_0015.htm).

<sup>126</sup> HEALTHY BODEGAS INITIATIVE, A PROGRAM OF THE DEP’T. OF HEALTH AND MENTAL HYGIENE (DOHMH), CEO INTERNAL PROGRAM REV. REPORT 10 (2009), *available at* [http://www.nyc.gov/html/ceo/downloads/pdf/BH\\_PRR.pdf](http://www.nyc.gov/html/ceo/downloads/pdf/BH_PRR.pdf).

<sup>127</sup> *Restaurant and Food Service Establishment Permit Fee Schedules – State and Local*, SHELBY COUNTY HEALTH DEP’T. (last visited July 31, 2014), *available at* <http://www.shelbycountyttn.gov/DocumentCenter/View/14623> (defining the smallest-sized retail produce market as having an area less than 1,200 sq. ft.).

<sup>128</sup> SHELBY COUNTY, TENN., CODE, ch. 8, art. XVII, S. 693 (2011).

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

**Healthy Retail Market** means a retail market operating in a fixed location, including [TYPES OF STORES, I.E. GAS STATIONS, CORNER STORES, CONVENIENCE STORES, etc.] that (1) meets the requirements in Section 8-703(d)(1) to supply fresh produce, whole grains, fresh proteins and dairy products, (2) devotes no more than [NUMBER] percent of its Selling Area to tobacco and alcohol products, (3) has a selling area of at least [NUMBER] sq. ft. and no more than [NUMBER] sq. ft., and (4) satisfies the minimum wage requirements for employees set forth in Chapter 5-4 of the Memphis Code. Notwithstanding the previous sentence, "healthy retail market" does not include (1) a supermarket, (2) a restaurant, or (3) a store that, at the time it seeks to access the incentives and assistance available through the program, already devotes at least [NUMBER] percent of its Selling Area to fresh produce, whole grains, fresh proteins and dairy products.

**Initiative** means the Healthy Retail Markets Initiative.

**Retail Market** means a retail market operating in a fixed location, including [identical definition to "Healthy Retail Market" definition before explanation of requirements.]

**Selling Area** means the combined floor area and shelf space of a retailer market's premises.

The Food Advisory Council, in cooperation with City or County officials, can determine the specific details of these definitions, such as the percentage of selling area that should be allocated to healthy foods.

### *b. Implementing Agency*

The Food Advisory Council should also consider what government agency is in the best position to implement and enforce the healthy corner store initiative. As previously mentioned, in the absence of an ordinance, universities and non-profit organizations have all served as the institutional home of healthy corner store initiatives. An ordinance would assign the responsibilities of implementing a healthy corner store to a local agency.

The City or county health departments are common overseeing agencies of such initiatives. In response to an increase in the rate of obesity, the role of local health organizations in improving healthy food access is becoming more important.<sup>131</sup> A healthy corner store initiative could very well fall under the jurisdiction of a health department, since health departments gear their resources toward identifying policy and environmental changes that can lead to better nutrition.<sup>132</sup> Municipal health departments led the implementation of healthy corner store initiatives in Louisville, Minneapolis and New York City.<sup>133</sup> Given the broad powers of health officers<sup>134</sup> and the autonomy the health department has to establish

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<sup>131</sup> HARVARD FOOD LAW AND POLICY CLINIC, GOOD LAWS, GOOD FOOD: PUTTING LOCAL FOOD POLICY TO WORK FOR OUR COMMUNITIES 15 (2012).

<sup>132</sup> *Id.*

<sup>133</sup> Telephone Interview with Rachel Dannefer, *supra* note 15; Telephone Interview with Sasha Belenky, *supra* note 17; Telephone Interview with Kristen Klinger, *supra* note 39.

<sup>134</sup> MEMPHIS, TENN., CODE, title 9, ch. 4 § 4 (2013).

and enforce its own agenda,<sup>135</sup> the Memphis and Shelby County Health Department might serve as the appropriate administrative home of a healthy corner store initiative. In the definitions section of the ordinance, the implementing agency could be defined as:

**Department** means the Memphis and Shelby County Health Department.

Other local government agencies can also be involved in implementation. In San Francisco, the Healthy Food Retailer Incentive Program ordinance tasks the Economic and Workforce Development Department with coordinating the program, by providing technical assistance and training resources to program participants.<sup>136</sup> The Community Redevelopment Agency in Memphis and Shelby County (CRA) is a reasonable analog. The mission of the CRA is to determine where redevelopment services are needed most, to make recommendations related to funding civic projects, develop guidelines for development programs, and conduct meetings to get community input.<sup>137</sup> Further, the CRA is tasked with the duty to “offer economic incentives, find funding sources and to obtain funds therefrom for the purpose of implementing approved programs and activities, and to aid communities and entities of the city and the county to assist in upgrading and beautifying properties in all areas of the city and the county.”<sup>138</sup> If the Council has concerns about have the Shelby County Health Department implement the Initiative, the ordinance could establish a healthy corner store initiative under the auspices of the CRA, since it would largely encompass providing economic incentives to storeowners.

While these agencies are both viable candidates for healthy corner store initiative implementation, they may not be as suitable in practice. The Food Advisory Council should evaluate which agency would have the capacity to best carry out a healthy corner store initiative.

### 3. Establishment

This section of the ordinance explains the purpose of a healthy corner store initiative, and outlines any requirements the ordinance establishes. It also explains the duties of the agency responsible for implementing the initiative. The Establishment section could read:

#### **Section 8-703. Healthy Retail Markets Initiative.**

(a) Establishment.

There is hereby created a Healthy Retail Markets Initiative for the City of Memphis and Shelby County to be administered by the [AGENCY].

(b) Purpose.

The purpose of the Initiative shall be to increase access to healthy food; reduce unhealthy influences such as tobacco, alcohol and processed foods high in salt, fat, and sugar in underserved parts of the County; and stimulate economic development and job creation by creating

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<sup>135</sup> MEMPHIS, TENN., CODE, title 9, ch. 4 § 6 (2013).

<sup>136</sup> S.F., CAL., ADMIN CODE, ch. 59 § 4(c) (2013).

<sup>137</sup> SHELBY COUNTY, TENN., CODE, ch. 32, art. VII § 179 (2011).

<sup>138</sup> *Id.*

incentives for Healthy Retail Markets to open or expand in those underserved areas.

The duties of the agency that implements the ordinance could include:

(c) Duties.

In administering the Program, the [AGENCY] shall:

- (1) Coordinate efforts to promote and support Healthy Retail Markets with other public agencies in the County, including, but not limited to, the \_\_\_\_, the Shelby County Grants Office, and the Office of Planning and Development.
- (2) Develop strategic partnerships and meet regularly with community based organizations, schools, storeowners and others for the purpose of promoting community engagement and Healthy Retail Markets in the County, and seek feedback from these community partners in major policy decisions.
- (3) Coordinate and centralize City-wide incentives and technical assistance to promote the establishment and expansion of Healthy Retail Markets in areas of the City that the Agency [and/or Department] identifies as having a lack of access to Healthy Retail Markets.
  - (A) Identify "underserved areas" of the City that lack access to Healthy Retail Markets.
  - (B) Identify obstacles deterring new and existing retailers from offering fresh, healthy foods and locating in the designated underserved areas; develop strategies to address these challenges.
  - (C) Identify and recruit retail markets to participate in the initiative by determining which stores could provide the most benefit to low-income communities and which stores have the interest and capacity to successfully implement the initiative.
  - (D) Coordinate existing incentives and develop new incentives to recruit, maintain, and develop new Healthy Retail Markets in the designated underserved areas, and ensure that existing retail markets in those areas are fully utilizing economic incentives and technical assistance. Such incentives and assistance to be made available to Healthy Food Retailers may include,

but are not limited to, technical support, training, assistance with permits and licensing, store redesign assistance, retail assessment, façade improvement, promotional and marketing materials, and access to grants and loans. In providing such incentives and assistance, the Department will engage community-based partners to promote the Program and engage local businesses and the surrounding community.

- (4) Create, by [DATE], a centralized resource center to provide information and technical assistance to persons, businesses, and organizations seeking to become Healthy Retail Markets.

These duties could be altered to best fit the responsibilities of the agency that is tasked with implementing the program. Finally, a clause in the ordinance would authorize the agency to enforce the ordinance, especially if the initiative mandates that corner stores comply with healthier requirements. This might look like the following:

**Sec. 8-705. Rules and regulations.**

The Director of the [AGENCY] shall have power and authority, and it shall be his or her duty, to establish and enforce all necessary rules and regulations of the Healthy Retail Markets initiative and prescribe the duties of all employees of the initiative.

#### 4. Optional or Mandatory

The Council and policymakers must determine whether meeting the healthy corner store criteria will be mandatory. The Staple Food Ordinance in Minneapolis is the only mandatory ordinance, requiring that businesses comply with the ordinance in order to renew their business licenses.<sup>139</sup> The ordinance requires stores to offer at least five varieties of perishable fruits or vegetables, and at least three varieties each of proteins, grains, and dairy products, with two perishable products in each category.<sup>140</sup> Stores that fail to comply with the ordinance risk “citations, fines, suspensions, and revocation” of operating licenses.<sup>141</sup> Despite these penalties, nearly 75 percent of small food stores in the city did not comply with the ordinance one year after it passed.<sup>142</sup> According to Kristen Klinger, Senior Public Health Specialist at the Minneapolis Health Department, stores were not complying because they did not have

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<sup>139</sup> See MINNEAPOLIS, MINN. CODE, title 10, ch. 203 § 20 (2008).

<sup>140</sup> *Staple Food Requirement for Minneapolis Grocery Stores*, BUS, LICENSE INFO. PROGRAM, [http://www.minneapolismn.gov/www/groups/public/@regservices/documents/webcontent/convert\\_272863.pdf](http://www.minneapolismn.gov/www/groups/public/@regservices/documents/webcontent/convert_272863.pdf) (last visited July 31, 2014).

<sup>141</sup> *Id.*

<sup>142</sup> SUSTAINABLE CITIES INST., BRINGING NUTRITIOUS, AFFORDABLE FOOD TO UNDERSERVED COMMUNITIES: A SNAPSHOT OF HEALTHY CORNER STORE INITIATIVES IN THE UNITED STATES 11 (Feb. 2014), *available at* [http://www.sustainablecitiesinstitute.org/Documents/SCI/Report\\_Guide/ResearchBrief\\_HealthyCornerStoresSCI\\_Final1.pdf](http://www.sustainablecitiesinstitute.org/Documents/SCI/Report_Guide/ResearchBrief_HealthyCornerStoresSCI_Final1.pdf).

the physical or financial capacity to store fresh produce.<sup>143</sup> Furthermore, the owners did not know how to display or store fresh produce.<sup>144</sup>

To remedy the problem in Minneapolis, the Minneapolis Health Department developed an incentive program called the Minneapolis Healthy Corner Store Program, which works with storeowners to modify store layout, identify affordable healthy food procurement options, and promote these new products.<sup>145</sup> Instead of expecting all corner stores in the city to comply at the same time, the initiative now focuses on converting a limited number of stores each year. By August 2013, the Program had aided 39 corner stores in their efforts to sell more healthy food and comply with the Staple Food Ordinance.<sup>146</sup>

While the initial challenges of the Minneapolis ordinance call into question the effectiveness of a mandatory law, it could have been more successful if the ordinance had included more oversight and resources to create the accompanying initiative right away. One option is to make the standards mandatory for new stores, and optional for existing stores. If new corner stores in Memphis are required to meet a minimum standard of providing staple foods, this will provide healthy competition to encourage older stores to offer the same types of foods. The initiative staff could focus on assisting new stores and incentivizing existing stores to meet or exceed the standards. As existing stores would not be required to make these changes, Memphis would not meet the same challenges as Minneapolis in requiring storeowners to make significant investments and alterations without any support. The text of the ordinance could read:

**Section 8-703. Healthy Retail Markets Initiative.**

*[(c) discussed below in Section III.B.]*

(d) Minimum requirements of retail markets.

A retail market that does not possess a license as of the effective date of this ordinance must meet the following requirements:

- (1) All retail markets licensed under this chapter must offer for sale healthy food on a continuous basis, including at least [NUMBER] varieties of qualifying, non-spoiled, food in each of the following four staple food groups, with at least [NUMBER] varieties of perishable food in the first category and at least [NUMBER] varieties of perishable food in all subsequent categories:
  - (A) Vegetables and/or fruits
  - (B) Meat, poultry, fish and/or vegetable proteins
  - (C) Bread and/or cereal

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<sup>143</sup> Telephone Interview with Kristen Klinger, *supra* note 39.

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> SUSTAINABLE CITIES INST., *supra* note 142, at 11.

(D) Dairy products and/or substitutes

This section would require that all newly licensed stores stock a certain number of staple foods. While not explicitly mentioned in the ordinance itself, existing corner stores could choose to participate, and the implementing agency could reward them with incentives from the healthy corner store initiative to make alterations and improvements to their business to start selling healthy foods.

## B. FUNDING AND STAFF

Funding and support are vital to a robust healthy corner store initiative, and can come from a variety of sources. In most current healthy corner store initiatives, funding came from city government or grant-giving organizations, while staffing was composed of both paid positions and volunteers. Funding in Louisville came from a grant from the U.S. Centers for Disease Control and Prevention (CDC); in Minneapolis, a Statewide Health Improvement Program grant; in New York City, from the Department of Health and other various grants; in Philadelphia, from state funding; in San Francisco, from the city budget; and in St. Louis, from the Missouri Foundation for Health, the St. Louis Development Corporation, and the Community Development Agency.<sup>147</sup> In Memphis, the CRA could potentially use its power to “find funding sources and to obtain funds therefrom for the purpose of implementing approved programs and activities” to support a healthy corner store initiative.<sup>148</sup>

Staffing is often contingent on funding; generally cities have one or two full time staff members working to design and implement an initiative. In Louisville, students from the Louisville School of Public Health help one main staff member with overseeing the program.<sup>149</sup> Staffing in Minneapolis consisted of one staff member from the health department, one grocer consultant, and an intern.<sup>150</sup> A program manager, four outreach staff, an evaluator, a support staff member and five to six interns oversaw, implemented and measured results of the New York initiative.<sup>151</sup> St. Louis employed a single director of the program.<sup>152</sup> Staffing in Providence was more voluntary, where local high school students, staff from schools, parent-teacher organizations, and university students volunteered to implement the program.<sup>153</sup>

In San Francisco, a single full-time staff member uses information from many outside consultants to implement the initiative.<sup>154</sup> The position was created in the program’s founding ordinance, which states that: “there is at least the equivalent of a total of one full-time staff person” in the Economic and Workforce Development Program or the Department of Public Health to coordinate the initiative.<sup>155</sup> Securing funding for this position in the ordinance would make for a more sustainable program, as the success of the initiative is largely dependent on having dedicated staff that understand the communities in which they are working.

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<sup>147</sup> Telephone Interview with Sasha Belenky, *supra* note 17; Telephone Interview with Kristen Klinger, *supra* note 39; Telephone Interview with Rachel Dannefer, *supra* note 15; Email from Kenji Tabery, *supra* note 16; Telephone Interview with Nickolas Pagoulatos, *supra* note 29; Telephone Interview with Kara Lubischer, *supra* note 26.

<sup>148</sup> SHELBY COUNTY, TENN., CODE, ch. 32, art. VII § 179 (2011).

<sup>149</sup> Telephone Interview with Sasha Belenky, *supra* note 17.

<sup>150</sup> Telephone Interview with Kristen Klinger, *supra* note 39.

<sup>151</sup> Telephone Interview with Rachel Dannefer, *supra* note 15.

<sup>152</sup> Telephone Interview with Kara Lubischer, *supra* note 26.

<sup>153</sup> Telephone Interview with Amelia Rose, *supra* note 18.

<sup>154</sup> Telephone Interview with Nickolas Pagoulatos, *supra* note 29.

<sup>155</sup> S.F., CAL., ADMIN. CODE, ch. 59 § 6 (2013).

In addition to hiring a staff member, funding is also necessary for providing financial incentives to corner stores to offer more healthy foods. For example, the City of Providence's Healthy Communities Office provides low-interest loans for refrigeration and other equipment and infrastructural improvements for stores that are willing to sell healthier food.<sup>156</sup> In Philadelphia, corner stores receive a \$100 incentive for introducing four new healthy products into their inventory, as well as marketing materials for stores to advertise their new products.<sup>157</sup>

Many healthy corner store initiatives have relied on state or local Fresh Food Financing funds to help purchase equipment and make infrastructure improvements. In New Orleans, the city created a Fresh Food Retailer Fund that provides food retailers with forgivable or low-interest loans for improvements such as "construction and rehabilitation, equipment installation and upgrades, staff training" associated with offering more fresh foods.<sup>158</sup> In Washington, D.C., the City Council established a Healthy Food Retail Program that provides corner stores and grocery stores with grants, loans, equipment, technical assistance, or other services to increase access to healthy foods in low-income areas.<sup>159</sup> The Memphis ordinance could establish a funding mechanism to be used to incentivize storeowners to participate in the program. Memphis should also advocate for a state-level Fresh Food Financing Fund, which could provide resources to corner stores across the state. The Tennessee Grocery Access Task Force is currently working on policy recommendations to support healthy retail at the state level.<sup>160</sup>

The County Council will need to determine how to generate the revenue for the Fund. In Philadelphia, the Initiative is funded by the Philadelphia Department of Health through a grant from the Centers for Disease Control and Prevention.<sup>161</sup> Important to note, the Initiative only attained this grant funding after piloting its program and showing its initial success.<sup>162</sup> There are also several private foundations that have provided grant funding for local healthy corner store initiatives.<sup>163</sup> Therefore, Shelby County could consider piloting the program on a small scale in the hopes of getting funding to expand the program once it shows initial viability and potential. The Council could also earmark some portion of licensing fees and tax revenue from retail markets to be dedicated to this fund, or dedicate some percentage of sales tax revenue from unhealthy products sold at retail markets, such as cigarettes or alcohol.

In Memphis, a funding component in the ordinance could read:

**Sec. 8-706. Creation of a Healthy Retail Markets Fund.**

Starting Fiscal Year [YEAR], for the purposes of the Healthy Retail Markets ordinance, there is created a Healthy Retail Markets

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<sup>156</sup> Environ. Justice League of Rhode Island, *Healthy Corner Store Initiative February 2014 Update*, <http://ejlri.org/our-work/healthy-corner-store-initiative> (last visited Nov. 13, 2014).

<sup>157</sup> The Food Trust, *Healthy Corner Store Initiative Overview*, *supra* note 92, at 6.

<sup>158</sup> *Fresh Food Retailers Initiative*, CITY OF NEW ORLEANS (Sept. 3, 2014), <http://www.nola.gov/city/fresh-food-retailers-initiative/>; *See also, New Orleans Fresh Food Retailer Initiative*, HOPE ENTERPRISE CORPORATION, <http://www.hope-ec.org/index.php/new-orleans-fresh-food-retailer-initiative> (last visited Dec. 19, 2014).

<sup>159</sup> D.C. Code § 2-1212.31 (2011).

<sup>160</sup> Stacy Taylor, Jordan Tucker and Caroline Harries, *Stimulating Supermarket Development in Tennessee: A Report of the Tennessee Grocery Access Task Force*, TENNESSEE GROCERY ACCESS TASK FORCE (Fall 2012), available at [http://policylinkcontent.s3.amazonaws.com/TN\\_recommFINA\\_webL\\_0.pdf](http://policylinkcontent.s3.amazonaws.com/TN_recommFINA_webL_0.pdf).

<sup>161</sup> Food Trust Initiative 2010-2012, *supra* note 73, at 4.

<sup>162</sup> *Id.*

<sup>163</sup> Christine Fry, Lisa Chen, et al., *Summary Notes from PHLP Webinar: Healthier Food for Sale: Finding the Funding*, PUB. HEALTH L. AND POL'Y (Oct. 27, 2011), [http://www.healthycornerstores.org/wp-content/uploads/2011/11/October\\_2011WebinarSummaryHealthierFoodforSale\\_Final.pdf](http://www.healthycornerstores.org/wp-content/uploads/2011/11/October_2011WebinarSummaryHealthierFoodforSale_Final.pdf).

Fund which shall consist of a program within the [AGENCY]. The Healthy Retail Markets Fund, under the control of the director of [AGENCY,] shall support the following provisions:<sup>164</sup>

(1) The County shall maintain current staffing levels or create a new position so as to ensure that there is at least the equivalent of a total of one full-time staff person in the [AGENCY] to support and fulfill duties laid out in Section 8-703(c).

(2)The [AGENCY] shall develop and administer financial incentives for Healthy Retail Markets, including but not limited to the incentives listed in Section 8-703(c)(3)(D).

(3) The [AGENCY] shall support Healthy Retail Markets by creating the centralized resource center described in Section 8-703(c)(4).

### C. UPDATES AND METRICS

To evaluate the impact of the initiative, an ordinance could require that the implementing agency develop measurements of success and accountability.

In San Francisco, the ordinance requires that annual reports be made to the Mayor and Board of Supervisors about the progress of the initiative.<sup>165</sup> Such a report measures the number of “key program achievements and challenges from the previous year,” as well as the financial accounting of the program and an inventory of all agencies and city resources that the Healthy Food Retailers participating in the program have used.<sup>166</sup>

After Minneapolis implemented their initiative, the Minneapolis Department of Health and Family Support (MDHFS) used pre-implementation data and data from one, three, and six months post-implementation to measure how successfully the program increased the following: inventory and variety of affordable fresh produce varieties, visibility and attractiveness of fresh produce items, storeowner knowledge about handling and marketing fresh produce items, and sales of fresh produce items in corner stores.<sup>167</sup> Staff filled out a visual assessment to make these measurements.<sup>168</sup> After a corner store implemented the changes required of program participation, staff interviewed the storeowner for more information.<sup>169</sup> Creating a definition of success and a regime to evaluate that success is paramount to evaluating a healthy corner store initiative and ensuring that it is on track to obtain its intended outcome. Keeping a record of program successes could also attract and secure greater funding from public and private entities.

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<sup>164</sup> Text in this paragraph based on statute creating Shelby County Stormwater Fund. See SHELBY COUNTY, TENN., CODE, ch. 36, art. VII § 202 (2009).

<sup>165</sup> S.F., CAL., ADMIN. CODE, ch. 59 § 7 (2013).

<sup>166</sup> *Id.*

<sup>167</sup> MINNEAPOLIS DEP’T OF HEALTH AND FAMILY SUPPORT, MINNEAPOLIS HEALTHY CORNER STORE PROGRAM 10 (Feb. 2012), available at [www.health.state.mn.us/divs/oshii/docs/Mpls\\_Healthy\\_Corner\\_Store.pdf](http://www.health.state.mn.us/divs/oshii/docs/Mpls_Healthy_Corner_Store.pdf).

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

In an ordinance, a section could outline the expectations for how the agency administering the initiative would report updates, and on what timeframe. The text of the ordinance might look like the following:

**Sec. 8-707. Annual Progress Reports.**

By [YEAR], and every year thereafter, the [AGENCY] shall submit a written report to the Mayor and County Commission providing a summary of key initiative achievements and challenges from the previous year, an accounting of all County funding for the Healthy Retail Market initiative, and an inventory of the County resources and programs relevant to Healthy Retail Markets in Shelby County.

Appendix II of this report contains the model language laid out in this section as one cohesive model ordinance for the Food Advisory Council to use.

## **IV. Conclusion**

This report recommends that the Food Advisory Council for Memphis and Shelby County move forward with its plans to advocate for a healthy corner store initiative in its community, drawing on examples from around the country. This report provides relevant information that should be helpful in developing a healthy corner store initiative that will be sustainable and effective to increase food access in Shelby County. Increased access to affordable, nutritious food will help to lessen the economic and health burdens of food insecurity in Shelby County, providing more residents with the opportunity to make healthier choices for themselves and their families.

It is important to note that a healthy corner store initiative is only one piece of what should be a comprehensive strategy to increase food access in the County. While advocating for a healthy corner store initiative, the Food Advisory Council should continue to think of innovative ways to improve the food environment that will work in tandem with the healthy corner store initiative to encourage residents of Shelby County to make healthier choices. Along with other policy improvements and innovation, a healthy corner store initiative is a promising and instrumental tool to improve the food environment in Shelby County.

## Appendix I. Model Ordinance

ORDINANCE TO AMEND CHAPTER 8 OF THE SHELBY COUNTY CODE OF ORDINANCES BY CREATING A NEW ARTICLE [CODE NUMBER] "HEALTHY CORNER STORE INITIATIVE" REGARDING THE ESTABLISHMENT OF A HEALTHY CORNER STORE PILOT PROGRAM IN SHELBY COUNTY, TENNESSEE. SPONSORED BY COMMISSIONER [NAME].

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WHEREAS, 22 percent of Shelby County residents are considered "food insecure", defined as not having adequate access to food during the past year; and

WHEREAS, 45 of the 285 census tracts in Shelby County are "food deserts", defined as low-income communities that have "low levels of access to a grocery store or healthy, affordable food retail outlet"; and

WHEREAS, 35 percent of adults in Shelby County are obese, and communities that lack supermarkets suffer from greater rates of obesity than those communities that have a source of healthy food; and

WHEREAS, many County residents frequent convenience stores that largely do not sell healthy, nutritious foods, and instead offer an abundance of unhealthy foods, tobacco and alcohol; and

WHEREAS, the offerings of these convenience stores undermine public efforts undertaken by government agencies such as the Memphis Unified School District and Shelby County Health Department to encourage residents to make healthy choices; and

WHEREAS, The Food Advisory Council for Memphis and Shelby County has found that convenience stores would face a significant economic burden if they start to stock healthier foods without assistance; and

WHEREAS, The Shelby County Board of County Commissioners wishes to establish a program that would coordinate efforts to offer economic incentives and training to retail businesses in Memphis and Shelby County to encourage the sale of healthy foods in food insecure neighborhoods; and

[Depending on which agency is selected to implement the initiative, one of the follow clauses would be added:]

WHEREAS, The Shelby County Health Department can regulate the manufacturing, sale, and distribution of food in the County, and has implemented programs to promote healthy eating;

WHEREAS, The Community Redevelopment Agency in Memphis and Shelby County can offer economic incentives for the purpose of implementing

approved programs and activities that upgrade and beautify properties throughout the County;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE,** That

**SECTION 1.** Chapter 8, Code of Ordinances, Shelby County Government, be amended so as to create the following:

**Chapter 8  
Businesses and Business Regulations**

**Art. XVIII Healthy Corner Store Initiative 8-702 -- 8-706**

ARTICLE XVIII - Healthy Corner Store Initiative

**Section 8-702. Definitions:**

For purposes of this article, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Department** means the Shelby County Health Department.

**Healthy Retail Market** means a retail market operating in a fixed location, including [TYPES OF STORES, I.E. GAS STATIONS, CORNER STORES, CONVENIENCE STORES, etc.] that (1) meets the requirements in Section 8-703(d)(1) to supply fresh produce, whole grains, fresh proteins and dairy products, (2) devotes no more than [NUMBER] percent of its Selling Area to tobacco and alcohol products, (3) has a selling area of at least [NUMBER] sq. ft. and no more than [NUMBER] sq. ft., and (4) satisfies the minimum wage requirements for employees set forth in Chapter 5-4 of the Memphis Code. Notwithstanding the previous sentence, "healthy retail market" does not include (1) a supermarket, (2) a restaurant, or (3) a store that, at the time it seeks to access the incentives and assistance available through the program, already devotes at least [NUMBER] percent of its Selling Area to fresh produce, whole grains, fresh proteins and dairy products.

**Initiative** means the Healthy Retail Markets Initiative.

**Retail Market** means a retail market operating in a fixed location, including [identical definition to "Healthy Retail Market" definition before explanation of requirements.]

**Selling Area** means the combined floor area and shelf space of a retailer market's premises.

**Section 8-703. Healthy Retail Markets Initiative.**

(a) Establishment.

There is hereby created a Healthy Retail Markets Initiative for the City of Memphis and Shelby County to be administered by the [AGENCY].

(b) Purpose.

The purpose of the Initiative shall be to increase access to healthy food; reduce unhealthy influences such as tobacco, alcohol and processed foods high in salt, fat, and sugar in underserved parts of the County; and stimulate economic development and job creation by creating incentives for Healthy Retail Markets to open or expand in those underserved areas.

(c) Duties.

In administering the Program, the [AGENCY] shall:

- (1) Coordinate efforts to promote and support Healthy Retail Markets with other public agencies in the County, including, but not limited to, the [AGENCIES], the Shelby County Grants Office, and the Office of Planning and Development.
- (2) Develop strategic partnerships and meet regularly with community based organizations, schools, storeowners and others for the purpose of promoting community engagement and Healthy Retail Markets in the County, and seek feedback from these community partners in major policy decisions.
- (3) Coordinate and centralize City-wide incentives and technical assistance to promote the establishment and expansion of Healthy Retail Markets in areas of the City that the Agency [and/or Department] identifies as having a lack of access to Healthy Retail Markets.
  - (A) Identify "underserved areas" of the City that lack access to Healthy Retail Markets.
  - (B) Identify obstacles deterring new and existing retailers from offering fresh, healthy foods and locating in the designated underserved areas; develop strategies to address these challenges.
  - (C) Identify and recruit retail markets to participate in the initiative by determining which stores could provide the most benefit to low-income communities and which stores have the interest and capacity to successfully implement the initiative.

(D) Coordinate existing incentives and develop new incentives to recruit, maintain, and develop new Healthy Retail Markets in the designated underserved areas, and ensure that existing retail markets in those areas are fully utilizing economic incentives and technical assistance. Such incentives and assistance to be made available to Healthy Food Retailers may include, but are not limited to, technical support, training, assistance with permits and licensing, store redesign assistance, retail assessment, façade improvement, promotional and marketing materials, and access to grants and loans. In providing such incentives and assistance, the Department will engage community-based partners to promote the Program and engage local businesses and the surrounding community.

(4) Create, by [DATE], a centralized resource center to provide information and technical assistance to persons, businesses, and organizations seeking to become Healthy Retail Markets.

(d) Minimum requirements of retail markets.

A retail market that does not possess a license as of the effective date of this ordinance must meet the following requirements:

(1) All retail markets licensed under this chapter must offer for sale healthy food on a continuous basis, including at least [NUMBER] varieties of qualifying, non-spoiled, food in each of the following four staple food groups, with at least [NUMBER] varieties of perishable food in the first category and at least [NUMBER] varieties of perishable food in all subsequent categories:

(A) Vegetables and/or fruits

(B) Meat, poultry, fish and/or vegetable proteins

(C) Bread and/or cereal

(D) Dairy products and/or substitutes

**Sec. 8-705. Rules and regulations.**

The Director of the [AGENCY] shall have power and authority, and it shall be his or her duty, to establish and enforce all necessary rules and regulations of the

Healthy Retail Markets initiative and prescribe the duties of all employees of the initiative.

**Sec. 8-706. Creation of a Healthy Retail Markets Fund.**

Starting Fiscal Year [YEAR], for the purposes of the Healthy Retail Markets ordinance, there is created a Healthy Retail Markets Fund which shall consist of a program within the [AGENCY]. The Healthy Retail Markets Fund, under the control of the director of [AGENCY,] shall support the following provisions:

- (a) The County shall maintain current staffing levels or create a new position so as to ensure that there is at least the equivalent of a total of one full-time staff person in the [AGENCY] to support coordination of Healthy Retail Market programs among County agencies and community stakeholders.
- (b) The [AGENCY] shall develop and administer financial incentives for retail markets to become Healthy Retail Markets, which could include but are not limited to cash incentives, infrastructural support, equipment, and façade improvements.
- (c) The [AGENCY] shall support Healthy Retail Markets by creating and disseminating marketing materials, advertisements, and other promotional materials to assist Healthy Retail Stores in increasing sales of healthy foods.

**Sec. 8-707. Annual Progress Reports.**

By [YEAR], and every year thereafter, the [AGENCY] shall submit a written report to the Mayor and County Commission providing a summary of key initiative achievements and challenges from the previous year, an accounting of all County funding for the Healthy Retail Market initiative, and an inventory of the County resources and programs relevant to Healthy Retail Markets in Shelby County.

BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, or sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect beginning [DATE].