

CHAPTER.....

AN ACT relating to agriculture; revising provisions relating to a plan to inventory vacant and blighted lands in a master plan; requiring the Council on Food Security to research and develop recommendations on community gardens and urban farms; authorizing a board of county commissioners to approve a partial abatement of ad valorem taxes for owners of real property who agree to the use of real property for community gardens or urban farms; revising provisions authorizing the governing body of a county or city to allow the use of vacant county or city owned lands for community gardening; authorizing the Director of the Department of Transportation to lease certain real property for community gardens and urban farms under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the planning commission of a city or county to prepare a master plan which may include an urban agricultural element. The urban agricultural element must include a plan to inventory any vacant lands owned by the city or county and blighted lands in the city or county to determine if such lands may be suitable for urban farming or gardening. (NRS 278.160) **Section 1** of this bill provides that the plan to inventory vacant or blighted lands may include an inventory of other real property owned by the city or county.

Existing law creates the Council on Food Security, which is charged with various duties relating to food security, including developing a food system. (NRS 232.4966, 232.4968) **Section 2** of this bill requires the Council to research and develop recommendations on community gardens and urban farms.

Section 3 of this bill authorizes a board of county commissioners to approve a partial abatement of ad valorem taxes equal to 10 percent of the taxes that would otherwise be imposed on a parcel if the owner intends to allow the property to be used as a community garden or urban farm. **Section 3** requires the owner of the real property to agree to the operation of the community garden or urban farm for a period of not less than 5 years.

Existing law authorizes the governing body of a city or county to use vacant or blighted land owned by the city or county for the purpose of community gardening. (NRS 244.291, 268.0191) **Sections 4 and 5** of this bill expand this provision to: (1) include urban farms; and (2) authorize the use of other real property owned by the city or county that is vacant or blighted for community gardening and urban farming. **Sections 4 and 5** also require the governing body of a city or county to encourage the development of community gardens and urban farms, including by making available any existing federal, state or local resources to persons seeking to develop a community garden or urban farm. Lastly, **sections 4 and 5** authorize the governing body of a county or city who owns a municipal water system or who has an agreement with a water authority, water district or water system to provide or request the provision of water to community gardens or urban farms at a wholesale or reduced rate.



Existing law authorizes the Director of the Department of Transportation to lease real property held by the Department that is not in current use for fair market value. (NRS 408.507) **Section 10** of this bill authorizes the Director to lease such real property for use as community gardens and urban farms for \$1 per year. A local government who leases such land from the Department is required under **section 10** to prioritize community gardens and urban farms that meet certain criteria. **Section 9** of this bill makes a technical change to account for a change to an internal reference in **section 10**.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

WHEREAS, Obesity, which is recognized as a disease by a variety of organizations, including the World Health Organization, the United States Food and Drug Administration of the United States Department of Health and Human Services and the National Institutes of Health, is an epidemic in the United States with almost 72 percent of Americans classified as overweight or obese; and

WHEREAS, Obesity disproportionately impacts communities of color and low-income communities and can negatively impact health outcomes for people in those communities; and

WHEREAS, Communities of color and low-income communities often have limited access to healthy and affordable foods and safe places to play or exercise outdoors, which are vital to maintaining an active and healthy life; and

WHEREAS, Community programs are critical to addressing obesity in communities by helping people in those communities lose weight and adopt long-term healthy habits; and

WHEREAS, Community programs such as community gardens and urban farms may help provide communities with access to healthy and affordable food and encourage communities to participate in outdoor activities in a safe space and adopt healthy eating habits; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in this section and NRS 278.150 and 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following elements or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) A conservation element, which must include:



(1) A conservation plan for the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The conservation plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The conservation plan must also indicate the maximum tolerable level of air pollution.

(2) A solid waste disposal plan showing general plans for the disposal of solid waste.

(b) A historic preservation element, which must include:

(1) A historic neighborhood preservation plan which:

(I) Must include, without limitation, a plan to inventory historic neighborhoods and a statement of goals and methods to encourage the preservation of historic neighborhoods.

(II) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.

(2) A historical properties preservation plan setting forth an inventory of significant historical, archaeological, paleontological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(c) A housing element, which must include, without limitation:

(1) An inventory of housing conditions and needs, and plans and procedures for improving housing standards and providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.



(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

(d) A land use element, which must include:

(1) Provisions concerning community design, including standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(2) A land use plan, including an inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(I) Must, if applicable, address mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts. The land use plan must also, if applicable, address the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(II) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(3) In any county whose population is 700,000 or more, a rural neighborhoods preservation plan showing general plans to preserve the character and density of rural neighborhoods.

(e) A public facilities and services element, which must include:

(1) An economic plan showing recommended schedules for the allocation and expenditure of public money to provide for the



economical and timely execution of the various components of the plan.

(2) A population plan setting forth an estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(3) An aboveground utility plan that shows corridors designated for the construction of aboveground utilities and complies with the provisions of NRS 278.165.

(4) Provisions concerning public buildings showing the locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(5) Provisions concerning public services and facilities showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145. If a public utility which provides electric service notifies the planning commission that a new transmission line or substation will be required to support the master plan, those facilities must be included in the master plan. The utility is not required to obtain an easement for any such transmission line as a prerequisite to the inclusion of the transmission line in the master plan.

(6) A school facilities plan showing the general locations of current and future school facilities based upon information furnished by the appropriate county school district.

(f) A recreation and open space element, which must include a recreation plan showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(g) A safety element, which must include:

(1) In any county whose population is 700,000 or more, a safety plan identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The safety plan may set forth policies for avoiding or minimizing the risks from those hazards.

(2) A seismic safety plan consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.



(h) A transportation element, which must include:

(1) A streets and highways plan showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(2) A transit plan showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(3) A transportation plan showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The transportation plan may also include port, harbor, aviation and related facilities.

(i) An urban agricultural element, which must include a plan to inventory any vacant lands *or other real property* owned by the city or county and blighted land in the city or county to determine whether such lands are suitable for urban farming and gardening. *The plan to inventory any vacant lands or other real property may include, without limitation, any other real property in the city or county, as deemed appropriate by the commission.*

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other elements as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such element as a part of the master plan.

Sec. 2. NRS 232.4968 is hereby amended to read as follows:

232.4968 The Council on Food Security created by NRS 232.4966 shall:

1. Develop, coordinate and implement a food system that will:

(a) Partner with initiatives in economic development and social determinants of health;

(b) Increase access to improved food resource programs;

(c) Increase participation in federal nutrition programs by eligible households; and

(d) Increase capacity to produce, process, distribute and purchase food in an affordable and sustainable manner.

2. *Research and develop recommendations on community gardens and urban farms, which must include, without limitation:*

(a) *Examinations of:*



(1) Local and regional efforts to develop community gardens and urban farms;

(2) Regulatory and policy barriers to the development of community gardens and urban farms; and

(3) The potential effects of community gardens and urban farms on economic development in this State; and

(b) Recommendations to:

(1) Promote the use of community gardens and urban farms in this State;

(2) Strengthen local infrastructure for community gardens and urban farms; and

(3) Promote entrepreneurial efforts to develop community gardens and urban farms.

3. Hold public hearings to receive public comment and to discuss issues related to food security in this State.

~~[3.]~~ 4. Serve as a clearinghouse for the review and approval of any events or projects initiated in the name of the Plan.

~~[4.]~~ 5. Review and comment on any proposed federal, state or local legislation and regulation that would affect the food policy system of this State.

~~[5.]~~ 6. Advise and inform the Governor on the food policy of this State.

~~[6.]~~ 7. Review grant proposals and alternative funding sources as requested by the Director to provide recommendations for funding the Plan.

~~[7.]~~ 8. Develop new resources related to the Plan.

~~[8.]~~ 9. Advise, assist and make recommendations to the Director for the creation and administration of the Program.

~~[9.]~~ 10. On or before January 31 of each year submit an annual report to the Director and the Director of the Legislative Counsel Bureau concerning the accomplishments and recommendations of the Council concerning food security ~~[.]~~ , *including, without limitation, any recommendations concerning community gardens and urban farms.*

Sec. 3. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An owner of real property who intends to allow the real property, including, without limitation, land or improvements on the real property, to be used as a community garden or urban farm may submit a request to the board of county commissioners of the county in which the real property is located for a partial abatement of the ad valorem taxes imposed pursuant to chapter 361 of NRS for the parcel on which the community garden or



urban farm is located. If the real property is located in a city, the application must include, without limitation, proof that the governing body of the city has issued any necessary approvals for the use of the real property as a community garden or urban farm.

2. If the board of county commissioners receives an application pursuant to subsection 1, the board must provide notification of the application to:

(a) The Chief of the Budget Division of the Office of Finance;

(b) The county assessor;

(c) The county treasurer; and

(d) The governing body of the city where the property is located, if applicable.

3. The board of county commissioners shall hold a public hearing on the application not less than 30 days after providing notification of the application pursuant to subsection 2 and may approve the application after the public hearing if:

(a) The applicant demonstrates that the property is suitable for use as a community garden or urban farm;

(b) The applicant and the person operating the community garden or urban farm are willing and able to use the real property as a community garden or urban farm for a period of not less than 5 years; and

(c) The applicant enters into an agreement requiring the operation of the community garden or urban farm on the property for not less than 5 years beginning on the date of approval of the application.

4. If the board of county commissioners approves an application pursuant to this section, the applicant shall receive a partial abatement of the ad valorem taxes imposed pursuant to chapter 361 of NRS that is equal to 10 percent of the ad valorem taxes otherwise due for the parcel on which the community garden or urban farm is located for a period of 5 years, beginning on the July 1 of the fiscal year immediately following the date of approval of the application.

5. If the owner of real property receives a partial abatement of ad valorem taxes pursuant to this section, the owner shall record the approval of the abatement with the county recorder to ensure subsequent buyers have notice of the terms of the partial abatement.

6. If the real property of the person receiving the partial abatement pursuant to this section ceases to be used as a community garden or urban farm before the time specified in the agreement described in paragraph (c) of subsection 3 or the



person ceases to comply with the terms of the agreement, the owner shall:

(a) Repay to the county treasurer the amount of the abatement that was authorized pursuant to this section before the date on which the property or person ceased to comply; and

(b) Pay the interest on the amount due pursuant to paragraph (a) at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last of the month following the period for which the payment would have been made had the abatement not been approved until the date of payment of the tax.

7. The board of county commissioners shall adopt an ordinance setting forth procedures to ensure the owner is complying with the terms of the agreement described in paragraph (c) of subsection 3 and continues to qualify for the partial abatement of ad valorem taxes. The procedures must provide, without limitation, for the county treasurer and county assessor to receive yearly notice as to whether the real property continues to qualify for the partial abatement or if the owner of the real property must be required to repay the abatement pursuant to subsection 6.

8. An owner may submit a new application for an abatement pursuant to this section after the expiration of the term of the abatement set forth in subsection 4.

Sec. 4. NRS 244.291 is hereby amended to read as follows:

244.291 **1.** A board of county commissioners may, by ordinance, authorize the use of vacant or blighted county land *or other real property owned by the county* for the purpose of community gardening *or urban farming* under such terms and conditions established for the use of the county land *or real property* set forth by the ordinance.

2. The ordinance *adopted pursuant to subsection 1* may, without limitation:

~~[1.]~~ **(a)** Establish fees for the use of the county land;

~~[2.]~~ **(b)** Provide requirements for liability insurance; and

~~[3.]~~ **(c)** Provide requirements for a deposit to use the county land, which may be refunded.

3. *The ordinance adopted pursuant to subsection 1:*

(a) May provide that the board of county commissioners will prioritize the use of county land or other real property for community gardens and urban farms that:

(1) Hire at least a portion of the employees from residents of the local community;



(2) *Provide training for members of the local community to participate in gardening or farming;*

(3) *Allow members of the local community to provide input on the foods grown in the community garden or urban farm;*

(4) *Collaborate with school garden programs in the surrounding community and encourage students from those school garden programs to participate in the community garden or urban farm; and*

(5) *Use sources of renewable energy, including, without limitation, solar energy, to operate the community garden or urban farm.*

(b) *Must require that any urban farm established using land made available pursuant to the ordinance adopt a policy for diversity, equity and inclusion.*

4. *In addition to adopting an ordinance pursuant to subsection 1, a board of county commissioners shall encourage in any other manner the development of community gardens and urban farms, including, without limitation, encouraging the use of any available existing federal, state or local resources, such as money, grants and tax incentives, for the development of community gardens and urban farms.*

5. *If a board of county commissioners owns a municipal water system or has an agreement with a water authority, water district or water system, the board of county commissioners may provide or the board may request that the water authority, district or system provide water at a wholesale or reduced rate to a community garden or urban farm established by ordinance pursuant to this section. Nothing in this subsection requires a municipal water system or a water authority to provide water to a community garden or urban farm at a wholesale or reduced rate.*

Sec. 5. NRS 268.0191 is hereby amended to read as follows:

268.0191 1. The governing body of a city may authorize, by ordinance, the use of vacant or blighted city land *or other real property* for the purpose of community gardening *or urban farming* under such terms and conditions established for the use of the city land set forth by the ordinance. The ordinance may, without limitation:

~~[1.]~~ (a) Establish fees for the use of the city land;

~~[2.]~~ (b) Provide requirements for liability insurance; and

~~[3.]~~ (c) Provide requirements for a deposit to use the city land, which may be refunded.

2. *The ordinance adopted pursuant to subsection 1:*



(a) May provide that the governing body of the city will prioritize the use of city land or other real property for community gardens and urban farms that:

(1) Hire at least a portion of the employees from residents of the local community;

(2) Provide training for members of the local community to participate in gardening or farming;

(3) Allow members of the local community to provide input on the foods grown in the community garden or urban farm;

(4) Collaborate with school garden programs in the surrounding community and encourage students from those school garden programs to participate in the community garden or urban farm; and

(5) Use sources of renewable energy, including, without limitation, solar energy, to operate the community garden or urban farm.

(b) Must require that any urban farm established using land made available pursuant to the ordinance adopt a policy for diversity, equity and inclusion.

3. In addition to adopting an ordinance pursuant to subsection 1, the governing body of a city shall encourage in any other manner the development of community gardens and urban farms, including, without limitation, encouraging the use of any available existing federal, state or local resources, such as money, grants, and tax incentives, for the development of community gardens and urban farms.

4. If the governing body of a city owns a municipal water system or has an agreement with a water authority, water district or water system, the governing body of a city may or the governing body may request the water authority, district or system provide water at a wholesale or reduced rate to a community garden or urban farm established by ordinance pursuant to this section. Nothing in this subsection requires a municipal water system or a water authority to provide water to a community garden or urban farm at a wholesale or reduced rate.

Secs. 6-8 and 8.5. (Deleted by amendment.)

Sec. 9. NRS 405.110 is hereby amended to read as follows:

405.110 1. Except as otherwise provided in subsection 5, no advertising signs, signboards, boards or other materials containing advertising matter may:

(a) Except as otherwise provided in subsection 3, be placed upon or over any state highway.



(b) Except as otherwise provided in subsections 3 and 4, be placed within the highway right-of-way.

(c) Except as otherwise provided in subsection 3, be placed upon any bridge or other structure thereon.

(d) Be so situated with respect to any public highway as to obstruct clear vision of an intersecting highway or highways or otherwise so situated as to constitute a hazard upon or prevent the safe use of the state highway.

2. With the permission of the Department of Transportation, counties, towns or cities of this State may place at such points as are designated by the Director of the Department of Transportation suitable signboards advertising the counties, towns or municipalities.

3. A person may place an advertising sign, signboard, board or other material containing advertising matter in any airspace above a highway if:

(a) The Department of Transportation has leased the airspace to the person pursuant to subsection ~~f2~~ 3 of NRS 408.507, the airspace is over an interstate highway and:

(1) The purpose of the sign, signboard, board or other material is to identify a commercial establishment that is entirely located within the airspace, services rendered, or goods produced or sold upon the commercial establishment or that the facility or property that is located within the airspace is for sale or lease; and

(2) The size, location and design of the sign, signboard, board or other material and the quantity of signs, signboards, boards or other materials have been approved by the Department of Transportation; or

(b) The person owns real property adjacent to an interstate highway and:

(1) The person has dedicated to a public authority a fee or perpetual easement interest in at least 1 acre of the property for the construction or maintenance, or both, of the highway over which the person is placing the sign, signboard, board or other material and the person retained the air rights in the airspace above the property for which the person has dedicated the interest;

(2) The sign, signboard, board or other material is located in the airspace for which the person retained the air rights;

(3) The structure that supports the sign, signboard, board or other material is not located on the property for which the person dedicated the fee or easement interest to the public authority, and the public authority determines that the location of the structure does not create a traffic hazard; and



(4) The purpose of the sign, signboard, board or other material is to identify an establishment or activity that is located on the real property adjacent to the interstate highway, or services rendered or goods provided or sold on that property.

4. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of the tenant's lot and in accordance with the requirements and limitations set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

5. The provisions of subsection 1 do not apply to any advertising, signs, signboards or other materials containing advertising matter located:

(a) On a bench or shelter for passengers of public mass transportation built pursuant to a franchise granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or 277A.310 and 277A.330;

(b) On a monorail station; or

(c) On a touchdown structure if a public authority authorizes such advertising matter and the advertising matter is placed and maintained by a person who owns real property adjacent to the touchdown structure and who has:

(1) Dedicated the touchdown structure to the public authority or has granted a fee or perpetual easement to the public authority for the construction or maintenance of the touchdown structure; and

(2) Entered a written agreement with the public authority on terms and conditions acceptable to the public authority.

6. If any such sign is placed in violation of this section, it is thereby declared a public nuisance and may be removed forthwith by the Department of Transportation or the public authority.

7. Any person placing any such sign in violation of the provisions of this section shall be punished by a fine of not more than \$250, and is also liable in damages for any injury or injuries incurred or for injury to or loss of property sustained by any person by reason of the violation.

8. If a franchisee receives revenues from an advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the



financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

9. As used in this section:

(a) “Monorail station” means:

(1) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(2) Any facilities or appurtenances within such a structure.

(b) “Touchdown structure” means a structure, connected to a pedestrian bridge, which houses an elevator.

Sec. 10. NRS 408.507 is hereby amended to read as follows:

408.507 1. ~~[Real]~~ *Except as otherwise provided in subsection 2, real* property held in fee or improvements on the property acquired by the Department in advance of the actual construction, reconstruction or improvement of highways or in order to avoid the payment of excessive damages, or held by the Department pending a determination in the future on its use or disposal may be leased or rented by the Department for fair market value in such manner and for such periods as are determined by the Director to be in the best interests of the State.

2. *The Director may lease to a local government for \$1 per year real property held in fee by the Department that has been acquired by the Department in advance of the actual construction, reconstruction or improvement of highways or held by the Department pending a determination in the future on its use or disposal if:*

(a) *Such real property will be used by the local government for a community garden or urban farm;*

(b) *The local government attests in writing that the local government will prioritize community gardens and urban farms that:*

(1) *Hire at least a portion of the employees from residents of the local community;*

(2) *Provide training for members of the local community to participate in gardening or farming;*

(3) *Allow members of the local community to provide input on the foods grown in the community garden or urban farm; and*



(4) Collaborate with school garden programs in the surrounding community and encourage students from those school garden programs to participate in the community garden or urban farm; and

(c) Such real property will use sources of renewable energy, including, without limitation, solar energy, to operate the community garden or urban farm.

3. The Director may lease for fair market value space above and below the established grade line of the highway to state and public agencies and private persons in such manner and for such periods as the Director determines are in the best interest of the State, if:

(a) The full use and safety of the highway will not be impaired;

(b) Vehicular or pedestrian access to that space will not be required or permitted from the established grade line; and

(c) The free flow of traffic on the highway is not interfered with in any way.

~~[3-]~~ 4. All leases of an interest in real property entered into by the Department before April 1, 1985, are hereby ratified. All other leases entered into pursuant to subsection ~~[2-]~~ 3 must be approved by the Board subject to the provisions of subsection ~~[4-]~~ 5.

~~[4-]~~ 5. If the Department receives a proposal to negotiate a lease pursuant to subsection ~~[2-]~~ 3, it shall publish a notice in a newspaper of general circulation at least once a week for 2 weeks, stating that it has received the proposal and that it will receive other proposals for use of the space for 60 days after the completion of the publication. A copy of the notice must be mailed to each local governmental unit in the affected area. If the property is leased, it must be to the highest bidder for the space. The requirements for publication and notice do not apply if the proposal was received from an owner who controls the property on both sides of the highway.

~~[5-]~~ 6. All money received for leases and rentals must be deposited with the State Treasurer to be credited to the State Highway Fund.

