Municipal Procurement Provisions in the Environmental Law Institute's Municipal Governance Resources

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Environmental Law Institute's Municipal Governance Resources

1) A Toolkit for Incorporating Plant-Based Protein Measures in Municipal Climate Action Plans:

https://www.eli.org/research-report/toolkit-incorporating-plant-based-protein-measures-municipal-climate-action-plans

2) Model Compost Procurement Policy:

https://www.eli.org/research-report/model-compost-procurement-policy-commentaries

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PROCUREMENT GOVERNANCE LANDSCAPE

Municipal Role:

- Procurement refers comprehensively to purchasing activities undertaken by municipal government.
- Municipal policy and rules governing procurement typically established by ordinance (Municipal Code).
- Executive agencies and departments implement local procurement law and may be directed by municipal policies and regulations issued pursuant to authority established via ordinance(s).
- Procurement governance frameworks vary. For example, in some municipalities, a procurement board or chief purchasing officer plays a significant role in procurement decision-making.
- Local governments may deploy their procurement authority to achieve public policy objectives.

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A TOOLKIT FOR INCORPORATING PLANT-BASED PROTEIN MEASURES IN MUNICIPAL CLIMATE ACTION PLANS: *PURPOSE*

- Food accounts for an estimated 25 percent or more of U.S. households' consumption-based emissions.
- Plant-based proteins contribute *the least* to protein food-related emissions (i.e., low carbon footprint per gram of protein).
- Municipalities can leverage plant-based proteins for climate action, while achieving a range of other benefits.
- Because few CAPs include plant-based protein actions, the Toolkit is intended to address this gap.
- The Toolkit is designed to make it easier for municipalities to include CAP actions to:
  - ***increase the availability of plant-based proteins; and***
  - ***engage the public on their benefits.***

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METHODOLOGY FOR THE MENU OF ACTIONS

- Researched sustainable food-related actions in municipal CAPs and food system and sustainability plans from 36 geographically and size-diverse U.S. cities to identify best practices and identify gaps.
- The Menu includes over 40 actions, ranging from ambitious to incremental.
  - Identified examples in existing plans and provided links to those plans.
  - Created novel actions.
- Conducted interviews with experts and vetted drafts with key stakeholders.

Municipalities can tailor the example actions to their specific contexts, depending on their stakeholder priorities and available resources.

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MENU CATEGORIES

1. **Emissions Targets and Tracking:** Establishing food-related GHG emissions reduction targets and measuring progress

2. **Increased Availability:** Increasing the number of meals served or offered that contain plant-based proteins

3. **Municipal Procurement: Increasing the procurement of plant-based proteins by municipalities**

4. **Public Awareness:** Educating and engaging the public on the climate benefits as well as the many co-benefits of plant-based proteins

5. **Leadership and Recognition:** Recognizing and rewarding businesses and organizations that demonstrate leadership in increasing the availability of plant-based proteins and engaging the public on their benefits

6. **Incentives, Funding, and Technical Assistance:** Supporting businesses and organizations seeking to expand plant-based protein offerings and to facilitate access to plant-based proteins, especially in communities that lack adequate access

7. **Cooperation and Pledges:** Endorsing international, national, and state initiatives that promote plant-based proteins

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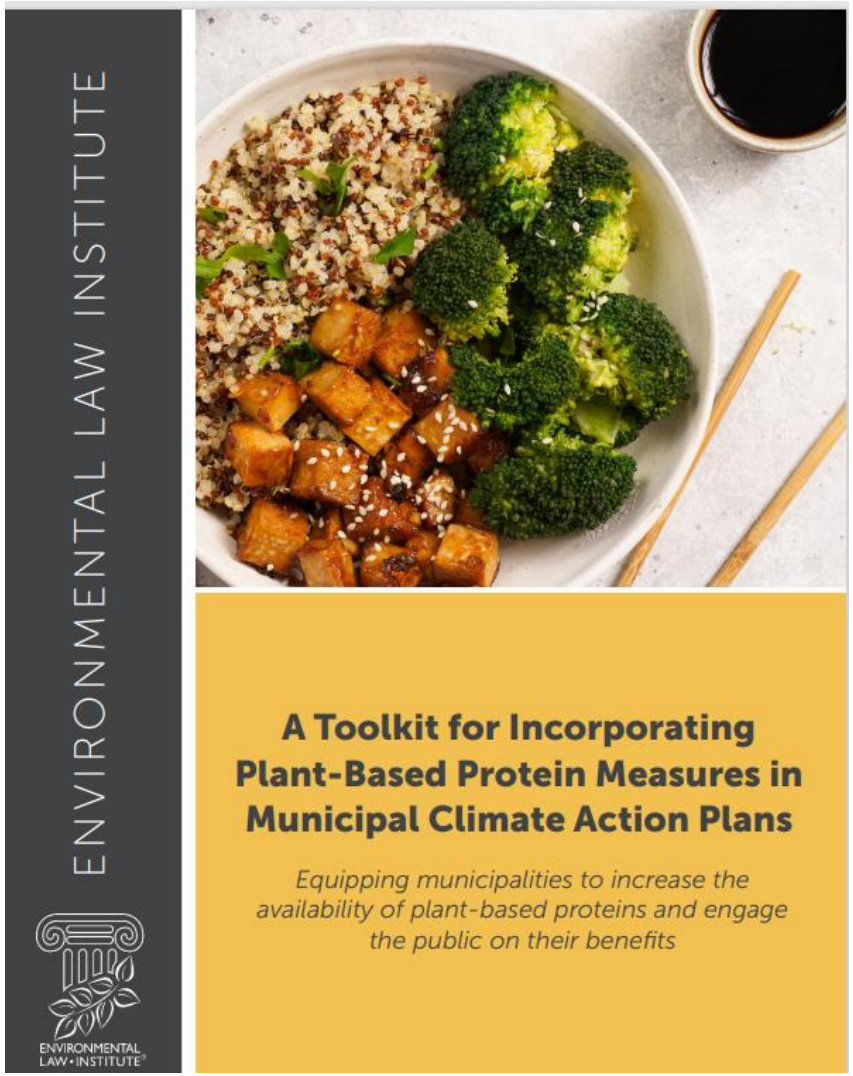

KEY CONSIDERATIONS: BENEFITS AND CHALLENGES

The *Toolkit* consists of two parts:

- **Part 1—**Menu of Plant-Based Protein Actions
  - 40 actions ranging from ambitious to incremental
- **Part 2—**Key Considerations
  - Climate benefits
  - Co-benefits of adopting plant-based protein actions;
  - Challenges including costs, quantification and behavioral change; and
  - Legal and policy considerations.

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CLIMATE BENEFITS OF PLANT-BASED PROTEIN ACTIONS

- Producing the average US resident's diet is estimated to generate 2.5 tons of carbon dioxide equivalent annually.
- Most plant-based proteins have a comparatively small carbon footprint, because plants require less in the way of resources and energy to grow, harvest, and distribute.
- For this reason, Project Drawdown has concluded that "plant-rich diets" have enormous climate mitigation potential and can "be adopted incrementally with small behavioral changes that together lead to globally significant reductions in greenhouse gas emissions."

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CO-BENEFITS OF PLANT-BASED PROTEIN ACTIONS

Beyond climate mitigation, municipal efforts to 1) increase the availability of plant-based proteins and 2) engage the public on their benefits can contribute to a variety of co-benefits including:

- Expanded consumer choice
- Environment
- Resilience and food security
- Equity and inclusion
- Animal welfare
- Health

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CHALLENGES OF PLANT-BASED PROTEIN ACTIONS

Despite the openness of the American public to eating more plant-based, municipalities may encounter challenges in incorporating plant-based protein actions into their CAPs including:

Cost (and potential savings)

Quantification of emissions reduction

Behavioral Change

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TOOLKIT PROCUREMENT ACTIONS

Action 1.A: Estimate GHG emissions from municipal food procurement and make the data publicly available to promote awareness and accountability.

- Washington, DC: Passed the Green Food Purchasing Amendment Act of 2020 which requires the Department of Energy and Environment (DOEE) to adopt a methodology to estimate GHG emissions.

Action 1.B: Set targets for reducing GHG emissions from municipally procured food (e.g., reduce municipal emissions from food by X% by 2030), as well as measure and report on progress; consider partnering with an outside organization to become part of initiatives such as the Cool Food Pledge for help with measuring and reporting on progress.

- New York, NY: Committed to reducing GHG emissions associated with municipal procurement by 33% by 2030.

Action 3.A: Establish targets for increased plant-based protein procurement for municipal operations (e.g., increase purchasing of plant-based proteins by X% by 2030 or ensure that at least Y% of proteins procured are plant-based).

- Berkeley, CA: Adopted a resolution establishing a goal to replace 50% of products served by the City with plant-based food products.

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TOOLKIT PROCUREMENT ACTIONS

Action 3.B: Adopt a broad food and climate purchasing strategy to purchase healthy and low carbon foods, particularly plant-based proteins.

- Eugene, OR: Action in CAP to implement a "buy climate-friendly first" food purchasing policy for public institutions.

Action 3.C: Join the Good Food Purchasing Program and/or undertake the Cool Food Pledge, to increase plant- based protein procurement across municipal operations; (which requires municipal operations to report food procurement for the purpose of calculating and tracking food-related emissions).

- Municipalities (e.g. NYC) can join and implement the Good Food Purchasing Program and so can school districts (e.g., Cincinnati and Pittsburgh) and other public institutions.

Action 3.D: Update or establish municipal food standards and nutrition guidelines for municipal operations to include requirements and recommendations for increased plant-based protein procurement.

- Philadelphia, PA: Food standards include a recommendation for serving a weekly plant-based meal.

Action 3.E: Update or establish procurement trainings for municipal staff to include best practices for increasing plant-based protein procurement.

- New York, NY: Provides resources on plant-based protein procurement for municipal staff.

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RELATED TOOLKIT ACTIONS

Action 2.A: Institute weekly menu initiative (e.g., Plant Powered Fridays) for municipal operations; encourage semiautonomous and quasi- governmental entities (e.g., correctional facilities, public schools, hospitals, convention centers) to institute their own.

- Escambia County, FL: Encourages institutions to serve weekly plant-based default meals.

Action 2.B: Require municipal operations and events sponsored by the municipality to offer at least one comparable plant-based protein option.

- Carrboro, NC: Action in CAP to offer plant-based options at municipal events.

Action 2.D: Make plant-based protein meals the default for municipal operations and events sponsored by the municipality.

- New York, NY: NYC Health + Hospitals served plant-based meals by default at all 11 public hospitals.

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MODEL COMPOST PROCUREMENT POLICY WITH COMMENTARIES

[insert name of municipal entity issuing policy]

1. Purpose

a. [*insert name of municipal entity issuing policy*] requires the procurement of compost (finished compost products) by [*insert names of municipal entities subject to policy (e.g., "Smith City Departments")*] and encourages the purchasing of compost by [*insert names of quasi-governmental and/or semiautonomous entities that the municipal entity issuing policy does not fully control, such as semiautonomous boards, commissions, and other authorities, or public-private partnerships such as convention centers*], as well as by private entities, for use in projects where compost is a suitable material.[1] By increasing the use of compost, the implementation of this policy will provide the following numerous benefits.[2]

i. Economic benefits

1. Requiring the purchasing of compost can increase demand for compost and increase business for local compost suppliers.
2. Diverting organic waste to be composted can reduce costs associated with landfill disposal.
3. Growing the compost market may result in the development of new compost processing facilities, which in turn may provide more jobs.
4. Applying compost increases soil-nutrient and water retention, which may reduce demand for irrigation and fertilizer, thereby reducing operational costs.

ii. Environmental benefits

1. Diverting organic waste from landfill disposal reduces greenhouse gas emissions by minimizing methane emissions from landfills and maximizing carbon storage from composting—and may ultimately mitigate the need for new landfill construction.
2. Cycling carbon and nutrients back into soil through compost application conserves resources and improves soil quality.
3. Composting helps prevent erosion and stabilize land.
4. Composting increases the ability of soil to retain water, thereby reducing stormwater runoff.

In determining the entities subject to the compost procurement policy, numerous factors may be considered, including the issuing entity's scope of authority, which, in turn, may be affected in part by the form of local government (e.g., council-mayor, council-manager, and commission)—as well as considerations such as political and budgetary constraints.

The list of benefits was compiled using the following sources: Natural Resource Defense Council's *Guide to Composting at Sports Venues*, Institute for Local Self Reliance's "Benefits of Composting," U.S. Environmental Protection Agency's *Compost in Landscaping Applications*, and "Soils for Salmon." See also Revised Code of Washington, 43.19A.120 (State compost procurement law provides: "The legislature finds . . . that local compost manufacturing plays a critical role in our state's solid waste infrastructure. Composting benefits Washington agencies, counties, cities, businesses, and residents by diverting hundreds of thousands of tons of organic waste from landfills, reducing solid waste costs, and lowering carbon emissions. . . . The diversion of food waste from landfills to compost processors remains critical for state and local governments to meet their ambitious diversion goals. The legislature also finds that composting is a strong carbon reduction industry for Washington, as the application of compost to soil systems permits increased carbon sequestration. Compost can also replace synthetic chemical fertilizer, prevent topsoil erosion, and filter stormwater on green infrastructure projects such as rain gardens and retention ponds.")

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WHAT IS A COMPOST PROCUREMENT POLICY?

Compost procurement policies require or encourage in some manner that municipalities purchase and use finished compost products in public projects such as landscaping, construction, and stormwater management.

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KEY DEFINITIONS

"*Compost*" means solid waste that has undergone biological decomposition of organic matter, has been disinfected using composting or similar technologies, and has been stabilized to a degree that is potentially beneficial to plant growth and that is suitable for use as a soil amendment, artificial topsoil, or other similar applications.

"Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Note: Municipalities may want to source definitions from their own local or state codes and policies to promote consistency.

MODEL POLICY BACKGROUND

- Developed by the Natural Resources Defense Council (NRDC) and the Environmental Law Institute in 2021.
- Based on extensive research on best practices from around the United States.
- Designed as an **adaptable tool** that can be tailored to needs of the individual municipalities, including small and mid-size cities.
- Structured as companion pieces—
  - An off-the-shelf version; and
  - A version with commentaries that provide background and alternative approaches for key provisions.
- An accompanying Slide Deck is also available.

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MODEL COMPOST PROCUREMENT POLICY ECONOMIC BENEFITS

1. Requiring the purchasing of finished compost products can increase demand for compost and increase business for local compost suppliers.
2. Diverting organic waste to be composted can reduce costs associated with landfill disposal.
3. Growing the compost market may result in the development of new compost processing facilities, which in turn may provide more jobs.
4. Applying compost increases soil nutrient and water retention, which may reduce demand for irrigation and fertilizer, thereby reducing operational costs.

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MODEL COMPOST PROCUREMENT POLICY ENVIRONMENTAL BENEFITS

1. Diverting organic waste from landfill disposal reduces greenhouse gas emissions by minimizing methane emissions from landfills—and may ultimately mitigate the need for new landfill construction.
2. Cycling carbon and nutrients back into soil through compost application conserves resources and improves soil quality.
3. Adding compost to soil helps prevent erosion and stabilize land.
4. Adding compost to soil increases the ability of soil to retain water, thereby reducing stormwater runoff and reducing reliance on irrigation.
5. Adding compost to soil replenishes nutrients and increases nutrient retention, reducing reliance on chemical fertilizers, which are often produced using fossil fuels.
6. Using compost in lieu of chemical fertilizers reduces water pollution that can result from fertilizer application and subsequent nutrient runoff.

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GENERAL POLICY

Municipality shall purchase compost for use in public projects in which compost is an appropriate material, provided it is not cost prohibitive to acquire.

Note, **“Cost prohibitive”** means the product purchasing cost exceeds by more than 10 percent the cost of another product that would serve the same purpose.

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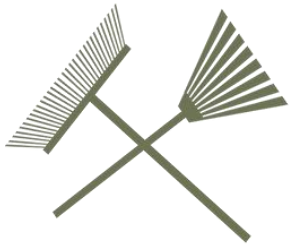
PROCUREMENT REQUIREMENTS APPLY TO:



LANDSCAPING

CONSTRUCTION

ROAD AND HIGHWAYS

LOW-IMPACT DEVELOPMENT AND GREEN INFRASTRUCTURE

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ENTITIES COVERED

- Applies to municipal entities (e.g., departments, agencies).
- Encourage quasi-governmental or semiautonomous entities (e.g., boards, commissions) to adopt policy.
- Encourages private entities to follow policy.
- Factors in determining entities that should be subject to a compost procurement policy:
    - Issuing municipality's scope of authority;
    - Political constraints; and
    - Budgetary constraints.

ALTERNATIVES TO COST STANDARD PROHIBITIVE

- Modified definition of “cost prohibitive” that increases or lowers the 10 percent standard—or gradually ramps it.

- “Whenever practicable” standard, which allows municipality to take into account factors in addition to purchasing cost (e.g. Sustainable Purchasing Policy of Sacramento, California).
- “Price preference” or “bid discount” approach (e.g. Berkeley’s Environmentally Preferable Purchasing Policy).
- Percentage of purchases requirements, whereby a certain portion of money spent or product purchased is allocated to compost (percentage can be ramped up over time).

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COMPOST SOURCING AND QUALITY REQUIREMENTS

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COMPOST SOURCING

Compost must be locally sourced, if available:

- “Locally produced compost” is defined as compost that is produced in the same region where is it is being used.
- If locally produced compost is not available, compost must be sourced from outside the region, with preference given to products sourced as close as possible to municipality.
- Proof that locally produced compost was not available at the time of purchase (or was cost-prohibitive) shall be documented and included in the annual reports.

ALTERNATIVE OR ADDITIONAL SOURCING REQUIREMENTS

Temporal: Some local governments provide an exception to the requirement that local governments use compost in their projects, if compost products "are not available within a reasonable period of time". (State of Washington)

Locally Generated: Some municipalities may preference compost that is made using feedstocks generated within the region. (Sacramento and Berkeley)

U.S. COMPOSTING COUNCIL SEAL OF TESTING ASSURANCE (STA) PROGRAM

- Compost must be purchased from U.S. Composting Council STA Program-certified manufacturers.

- Technical data sheets from composting manufacturers that detail test results for each compost shipment received must be kept on file and included in annual compost procurement report.

Note: Some local governments include language specifying a maximum amount of time that can pass between when the testing is performed and when the compost is used.

REPORTING

- Annual reporting requirements:
  - Name of the municipal entity; Volume of compost purchased throughout the year and total amount spent on compost;
  - Information about the source of the compost and proof of its STA certification; and
  - Recommendations for how to increase the percentage of purchased compost in the future.
- Municipal procurement office reviews reports, tracks progress, shares information with the Public.

- Tracking and reporting requirements help to:
  - Gain credibility by demonstrating how the jurisdiction is “leading by example”
  - Identify opportunities to improve the sustainable procurement program (Urban Sustainability Directors Network, p. 8)

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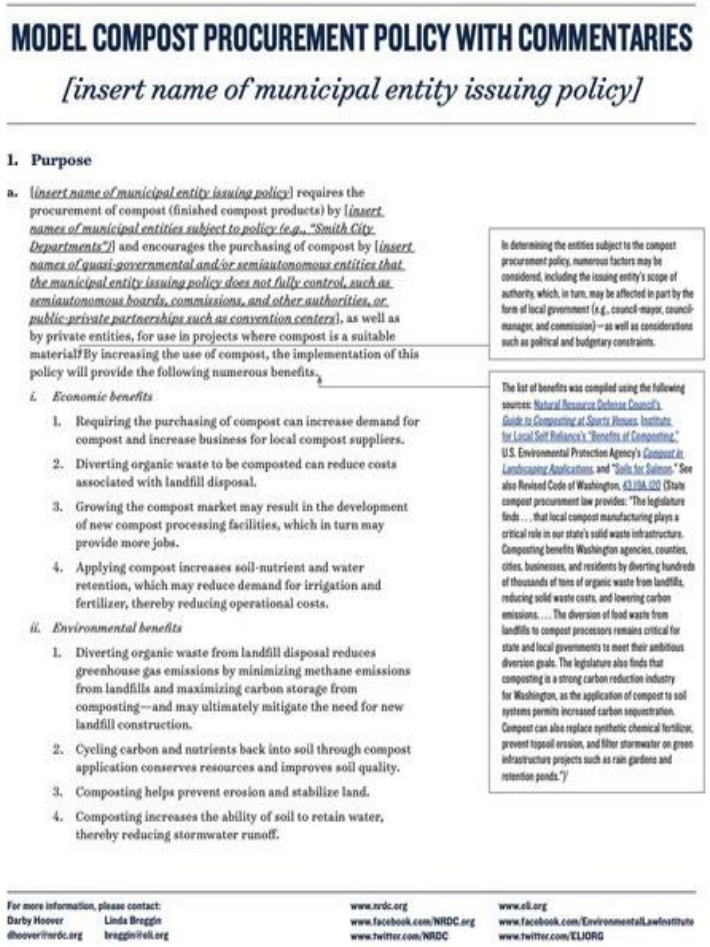
DIVE INTO THE MODEL POLICY

Model Compost Procurement Policy with Commentaries:

Commentary is provided explaining the benefits of key provisions and alternative approaches, as well as links to examples—all of which are intended to help guide stakeholders and policymakers in tailoring the policy to the unique circumstances of their region.

This template without commentaries can be used as an "off-the-shelf" model and was developed to be easily adapted for individual municipalities.



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ADDITIONAL ELI RESOURCES

- Model Municipal Zoning Ordinance on Community Composting (June 2024)
- Model Ordinance Establishing a Pay-As-You-Throw Program for Residential Municipal Solid Waste (November 2023)
- Model Executive Order on Municipal Leadership on Food Waste Reduction (July 2023) (Procurement considerations, page 4)
- Model Ordinance on Mandatory Reporting for Large Food Waste Generators (July 2022)
- A Toolkit for Implementing Share Tables in Municipal Schools (September 2023)
- A Toolkit for Incorporating Food Waste in Municipal Climate Action Plans (July 2021) (Procurement considerations, page 24)

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Thank you!

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