STAFF REPORT

DATE: October 15, 2014

TO: Members of the Planning Commission

FROM: Alex Amoroso, Principal Planner
Nicole Montojo, Planning Intern

SUBJECT: City Council Referral: Urban Agriculture Incentive Zones (UAIZs)

Introduction
On December 3, 2013, the City Council requested the City Manager provide analysis of the feasibility, potential benefits, and financial implications of establishing a UAIZ in Berkeley (Attachment 1). Following a review of staff’s analysis on these issues at a Council meeting on June 10, 2014, the City Council referred to the Planning Commission a request to recommend next steps in implementing a UAIZ in the City of Berkeley.

Background
Sections 51040-51042 of Chapter 6.3 of the California Government Code (Attachment 2) allows cities and counties to establish “Urban Agriculture Incentive Zones” by offering reduced property taxes to landowners who use vacant parcels exclusively for agriculture. The State law became effective January 1, 2014, and sunsets January 1, 2019. To make use of this law, the City of Berkeley and County of Alameda would need to adopt an Urban Agriculture Incentive Zone (UAIZ) ordinance, which would establish fees and procedures for administering the law’s requirements, and potentially modify zoning regulations to allow agricultural uses in the new UAIZ. Any UAIZ contracts entered into between the City, County, and land owners would need to be completed before the noted sunset date.

For the purposes of the UAIZ, agricultural use is defined as follows:

[F]arming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry, agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with
farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

The law does not require the use to be commercial, so a not-for-profit, community garden, or educational agriculture use could be eligible for the contract.

Section 51042A.02 of the State law notes that in implementing a UAIZ and administering related contracts, a city may adopt rules and regulations consistent with its zoning and other ordinances.

To date, San Francisco is the only city in California to have enacted an Urban Agricultural Incentive Zone and Program (Attachment 3). San Francisco’s UAIZ covers the entirety of the city; however, to be eligible for a UAIZ, the property must be located within a zoning district where Neighborhood Agricultural or Large-Scale Urban Agricultural Uses are existing allowed uses, either principally or by conditional permit. Prior to the establishment of the UAIZ, San Francisco’s Zoning Ordinance already included regulations on urban agriculture; these rules dictate the allowed agricultural uses in the UAIZ. San Francisco’s approval process requires coordination between its Planning Department, Agricultural Commissioner, Office of the Assessor-Recorder, Board of Supervisors, and Recreation and Parks Department.

Current Regulation of Agricultural Uses in Berkeley

Generally speaking, Berkeley “allows” agricultural uses within all commercial, industrial, and mixed use districts with approval of an Administrative Use Permit (AUP), if the use is found to be compatible with surrounding uses and the purposes of the district. The only zoning district that specifically calls out agriculture and farming as an allowable use is the Manufacturing District, where an AUP is required (Use Permit if larger than 40,000 square feet).

All of the City’s residential districts allow sale of non-processed edibles as an accessory use on occupied residential lots (Chapter 23C.20). However, the new UAIZ law applies to vacant, unimproved lots only. Therefore, a zoning amendment to allow commercial farming on such residential parcels would be needed for the UAIZ property tax reduction to apply to Residential districts. An exception to this is a community garden that does not have a for-profit commercial component, which could be considered a park. A park could be allowed on a vacant lot with a Zoning Certificate in most residential districts.

State Law Requirements

**Tax incentive.** Within the UAIZ, landowners of eligible parcels that commit to an exclusively agricultural use for five years and enter into a contract with the City and County would be assessed a reduced property tax rate.

Contracts must be entered into prior to January 1, 2019, the sunset date of the State law. Rather than the standard property tax rate, these properties will be assessed at the annual average per acre value of irrigated cropland in California. For 2014, this amount was $12,500 per acre, or $0.29 per square foot. If this is less than the current assessed value of the land, then the owner will pay lower property taxes for the period of the contract.

**Parcel eligibility.** Parcels are only eligible for UAIZ contracts if they are:
- Between 0.1 acre and 3 acres in size (4,560 and 130,680 square feet);
- Completely dedicated towards commercial or noncommercial agricultural use;
- Free of any dwellings and only have physical structures that support the agricultural use;
- Permitted to have an agricultural use.

In Berkeley, there are 417 vacant lots that meet the size thresholds, mapped in Attachment 4. The majority are located within the R-1 residential districts.

**Discussion**

The UAIZ is a creature of the State, in much the same way as Accessory Dwelling Units. The regulatory framework set forth in the State law leaves numerous gaps for local government interpretation. Staff asks that the Commission provide direction to the following “areas for interpretation” so that zoning language can be drafted for consideration at a future meeting.

**UAIZ Permitted Agricultural Uses and Location**

Staff asks that the Planning Commission consider the following issues:

1. What types of agricultural uses should be allowed within a UAIZ?
   a. What urban agriculture activities might be permitted broadly without significant external impacts?
   b. What urban agriculture activities might be permitted, but controlled or limited in some way?
   c. What urban agriculture activities might be permitted, but only in some areas?

To restrict the agricultural uses allowed within the UAIZ, the City would first need to establish definitions and regulations regarding urban agriculture. San Francisco’s urban agriculture Zoning Ordinance establishes Urban Agriculture as a use and specifies two different intensities – Neighborhood Agriculture and Large Scale Urban Agriculture – for the production of food or horticultural crops; the definitions can be found in Attachment 5. Neighborhood Agriculture is defined as “a use that occupies less than one (1) acre for the production of food or horticultural crops to be harvested, sold, or donated.” Large Scale Urban Agriculture applies to plots of land greater than one (1) acre or smaller parcels that cannot meet the physical and operational standards for Neighborhood Agriculture. These definitions do not explicitly address animal husbandry, which is regulated separately by the San Francisco Department of Public Health.

2. Which areas of Berkeley would be best suited for the permitted agricultural uses?

As noted earlier, most of the UAIZ-eligible vacant parcels are located in the Berkeley hills area, which is an R-1 district. In San Francisco, Neighborhood Agriculture is allowed principally/by right in all districts, and Large Scale Agriculture requires Conditional Use authorization in every district except its commercial and manufacturing districts where it is principally permitted.
Other Concerns

**UAIZs and Housing.** Critiques of the UAIZ Act have pointed out that it may place an extra strain on a city’s housing stock by tying up developable land in agricultural use. Given the location and characteristics of UAIZ-eligible parcels in Berkeley, staff feels that this is not a major concern for the City.

**Impact on property tax revenue.** Staff anticipates the number of lots that would make use of the UAIZ would be small and, therefore, would not have a significant effect on property tax revenues. This is because there are not very many vacant lots in Berkeley and the landowners are required to make a five year commitment. However, the potential for tax savings to property owners is significant and, therefore, would reduce property tax receipts for the City and the Berkeley Unified School District. The City of Berkeley may want to consider restrictions similar to those adopted by San Francisco that limit the tax savings for each property owner to $25,000 per year (or $250,000 per year for multiple contiguous parcels totaling less than five (5) acres).

**Possible Future Action**

Should the Planning Commission decide to recommend establishing a UAIZ in Berkeley, the main steps for implementation follow:

1. Identify the appropriate area(s) for a UAIZ with compatible land uses.
2. Develop an ordinance addressing application, administration, and enforcement.
3. Coordinate with Alameda County on a resolution of the Board of Supervisors approving Berkeley’s UAIZ and implementation of the local ordinance.
4. Amend the Zoning Ordinance as necessary to allow agricultural uses.

**Conclusion and Next Steps**

Staff requests direction on the Referral based on the above questions and any other insights provided by the Commission.

**Attachments:**

1. Original City Council Referral, December 3, 2013
2. Text of AB 551
3. San Francisco Administrative Code Ordinance 184-14 Chapter 53A establishing the UAIZ and creating local procedures to implement the UAIZ Act (add link)
4. Map of vacant parcels in Berkeley that would be eligible for tax incentives under the Urban Agriculture Incentive Act
5. San Francisco’s Urban Agriculture Ordinance
To: Honorable Mayor and Members of the City Council

From: Christine Daniel, City Manager

Submitted by: Eric Angstadt, Director, Planning and Development

Subject: Urban Agriculture Incentive Zones

INTRODUCTION
The Urban Agriculture Incentive Zone Act (Assembly Bill 551; 2013, Ting) allows cities and counties to establish “urban agriculture incentive zones” by offering reduced property taxes to landowners who use vacant parcels exclusively for agriculture. To make use of this law, the City of Berkeley and County of Alameda would need to adopt an urban agriculture incentive zone (UAIZ) in Berkeley, establish fees and procedures for administering the law’s requirements, and potentially modify zoning regulations to allow agricultural uses in the new UAIZ.

CURRENT SITUATION AND ITS EFFECTS
On December 3, 2013, the City Council requested the City Manager provide analysis of the feasibility, potential benefits, and financial implications of establishing a UAIZ in Berkeley. The state law became effective January 1, 2014 and sunsets January 1, 2019. As of this writing, no cities or counties in California have established zones.

BACKGROUND
Within the UAIZ, landowners of eligible parcels that commit to an exclusively agricultural use for five years would have reduced state property taxes as explained below.

Tax incentive. In exchange for committing to an exclusively agricultural use for five years, properties will be assessed at the annual average per acre value of irrigated cropland in California. For 2013, this amount is $12,500 per acre, or $0.29 per square foot. If this is less than the current assessed value of the land, then the owner will pay lower state property taxes for that five year period. This commitment is implemented through a contract between the landowner and the city and county.

Parcel eligibility. Parcels are only eligible for UAIZ contracts if they are:
- Between 0.1 acre and 3 acres in size (4,560 and 130,680 square feet)
- Completely dedicated towards commercial or noncommercial agricultural use
- Free of any dwellings and only have physical structures that support the agricultural use
• Permitted to have an agricultural use

In Berkeley there are 417 vacant lots that meet the size thresholds. The majority are located within the R-1 residential districts.

**Agricultural Uses.** For the purposes of the UAIZ, agricultural use is defined as follows:

[F]arming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry, agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

The law does not require the use to be commercial, so a not-for-profit, community garden, or educational agriculture use could be eligible for the contract.

Generally speaking, Berkeley “allows” agricultural uses within all commercial, industrial, and mixed use districts with approval of an Administrative Use Permit (AUP) if the use is found to be compatible with surrounding uses and the purposes of the district. The only zoning district that specifically calls out agriculture and farming as an allowable use is the Manufacturing District, where an AUP is required (Use Permit if larger than 40,000 square feet).

All of the city’s residential districts allow sale of non-processed edibles as an accessory use on occupied residential lots (Chapter 23C.20). However, the new UAIZ law applies to unoccupied lots only. Therefore, a zoning amendment to allow commercial farming on vacant residential parcels would be needed for the UAIZ property tax reduction to apply to residential areas. An exception to this is a community garden that does not have a for-profit commercial component, which could be considered a park. A park could be allowed on a vacant lot with a Zoning Certificate in most residential districts.

**How to create an UAIZ.** Establishing a UAIZ requires an ordinance passed by the city council and a resolution signifying the County Board of Supervisors’ approval.

**Administration.** The city would need to develop a process by which landowners can apply to put their land under contract, consequence for breach of contract or sale of property, and other administrative procedures. UAIZ contract administration could be similar to Williamson Act or Mills Act contracts, and would include eligibility assessment, coordination with the county, contract preparation and signing, site inspection, and annual review.
ENVIRONMENTAL SUSTAINABILITY
Designation of UAIZs may encourage landowners to convert vacant land to an agricultural use. Additional agricultural uses would create more green space, increase access to fresh produce, and potentially reduce greenhouse gas emissions from food transport. This is consistent with Climate Action Plan Land Use Policy 2.c, “Increase access to healthy and affordable foods for the community by supporting efforts to build more compete and sustainable local food production and distribution systems.”

POSSIBLE FUTURE ACTION
Should the City Council decide to pursue establishing a UAIZ in Berkeley, the main steps for implementation are as follows:
1. Identify the appropriate area(s) for a UAIZ with compatible land uses.
2. Develop an ordinance addressing application, administration and enforcement.
3. Coordinate with Alameda County on a resolution of the Board of Supervisors approving Berkeley’s UAIZ and implementation of the local ordinance.
4. Amend the zoning ordinance as necessary to allow agricultural uses.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
Preparation and administration of the UAIZ ordinance will require staff time in the short term. The UAIZ act allows the city to charge a fee to cover the cost of administration. The fee would likely cover most of the costs for program administration.

Impact on property tax revenue. Staff anticipates the number of lots that would make use of the UAIZ would be small and therefore would not have a significant effect on property tax revenues. This is because there are not very many vacant lots in Berkeley and the landowners are required to make a five year commitment. However, the potential for tax savings to property owners is significant and therefore would reduce property tax receipts for the city and the Berkeley Unified School District.

CONTACT PERSON
Eric Angstadt, Director, Planning and Development, 981-7410

Attachments:
1: December 3, 2013 City Council Referral
2: University of California Agriculture and Natural Resources Cooperative Extension, Guide to Implementing the Urban Agriculture Incentive Zones Act, November 22, 2013
3: MAP Berkeley Vacant Lots and Zoning Districts, April 2014
To: Honorable Mayor and Members of the City Council
From: Councilmember Jesse Arreguin
Subject: Implementing Urban Agriculture Incentive Zones

RECOMMENDATION:
Direct the City Manager to review the recently signed law, Assembly Bill 551 (Urban Agriculture Incentive Zone Act) and develop legislation for possible implementation of an Urban Agriculture Incentive Zone in the City of Berkeley. The City Manager when providing a report back to the City Council should provide an analysis of the law and the legal requirements that have to be met, the feasibility of implementation in Berkeley, and the potential benefits and financial implications of implementing an Urban Agriculture Incentive Zone.

BACKGROUND:
Governor Jerry Brown recently signed into law Assembly Bill 551 (the Urban Agriculture Incentives Zone Act) introduced by Assembly member Phil Ting, which authorizes cities and counties under specified conditions and until January 1, 2019 to enter into voluntary contracts for a period of 5 years with landowners to use vacant, unimproved or blighted lands for small-scale agricultural use, in exchange for a lower tax assessment. The law would apply to parcels of 0.10 acres or more.

This law is based on the state Williamson Act which authorizes cities and counties to enter into 10-year contracts with owners of land devoted to agricultural use, who agree to use the land for agricultural purposes in exchange for a reassessment of the land at a tax rate equal to rural farm land.

Similar to the Williamson Act, AB 551 requires the county assessor to value property that is enforceably restricted by a contract entered into under the Urban Agriculture Incentive Zones Act to a rate equal to the average per-acre value of irrigated cropland in California.

Under AB 551 a City after a public hearing and upon approval of the Board of Supervisors of the county in which the City is located, can adopt an ordinance establishing an Urban Agriculture Incentive Zone for the purpose of entering into enforceable contracts with owners of vacant, unimproved or blighted property for small-scale agricultural use. A City can after adopting legislation establishing a UAIZ and adopt rules and regulations consistent with the City’s zoning for the administration of the Urban
Agriculture Incentive Zone and for the purpose of entering into contracts with property owners under the UAIZ.

AB 551 creates incentives for the temporary re-use of vacant land for community gardens and urban farms. The City of Berkeley’s Climate Action Plan (CAP) includes policies to promote urban farming to reduce greenhouse gas emissions associated with the transport of food, as well as to promote community resiliency and improve public health. Goal 2 of the CAP Land Use Chapter states: “Increase and enhance urban green and open space, including local food production, to improve the health and quality of life for residents, protect biodiversity, conserve natural resources, and foster walking and cycling.”

Policy 2.c of the CAP Land Use Chapter states: “Increase access to healthy and affordable foods for the community by supporting efforts to build more complete and sustainable local food production and distribution systems.”

The implementation of UAIZs will generate more green spaces in our cities and create environmentally sustainable farms that co-exists with local eco-systems. UAIZs are a direct solution to food deserts—districts with little or no access to fresh and affordable food. In California alone, nearly one million people live in food deserts and a startling 13.5 million Americans reside in food deserts.

The lack of affordable fresh and healthy food (due to distance and/or financial capacity) is associated with high risks of obesity and malnutrition that significantly affects low-income and working class families. Access to health is a human right, and lack of open green space and fresh food is detrimental to our communities and our youth.

For these many reasons the Berkeley City Council on July 2, 2013 adopted Resolution 66,243 supporting Assembly Bill 551, the Urban Agriculture Incentive Zones Act. This item seeks to analyze implementation of the law by creating an Urban Agriculture Incentive Zone in Berkeley.

FINANCIAL IMPLICATIONS:
Unknown. Staff time involved in analyzing Assembly Bill 551, considering its feasibility in Berkeley and developing legislation for establishing an Urban Agriculture Incentive Zone (UAIZ). If the City Council adopts legislation allowing for UAIZ in Berkeley some properties who chose to take advantage of the law will be assessed at a lower tax rate, at a rate equal to rural farm land. However despite reduced real estate tax revenue to the City, the community would benefit by having local community gardens and urban farms that grow local produce, help build community, and provide healthy local food options to improve the health and wellness of the Berkeley community.

CONTACT PERSON:
Jesse Arreguin, Councilmember, District 4  981-7140

Attachments:
1. Text of Assembly Bill 551
2. Resolution No. 66,243, Supporting Assembly Bill 551
Assembly Bill No. 551

CHAPTER 406

An act to add Chapter 6.3 (commencing with Section 51940) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Section 402.1 of, and to add Section 422.7 to, the Revenue and Taxation Code, relating to local government.

[Approved by Governor September 28, 2013. Filed with Secretary of State September 28, 2013.]

LEGISLATIVE COUNSEL’S DIGEST

AB 551, Ting. Local government; urban agriculture incentive zones.

(1) Existing law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law authorizes the parties to a Williamson Act contract to mutually agree to rescind a contract under the act in order to simultaneously enter into an open-space easement for a certain period of years.

This bill would enact the Urban Agriculture Incentive Zones Act and would authorize, under specified conditions and until January 1, 2019, a city, county, or city and county and a landowner to enter into a contract to enforceably restrict the use of vacant, unimproved, or otherwise blighted lands for small-scale production of agricultural crops and animal husbandry. The bill would require a contract entered into pursuant to these provisions to, among other things, be for a term of no less than 5 years and to enforceably restrict property that is at least 0.10 acres in size.

(2) Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected. Under existing law these restrictions include, but are not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would require the county assessor to value property that is enforceably restricted by a contract entered into pursuant to the Urban Agriculture Incentive Zones Act at the rate based on the average per-acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture. The bill would also require the State Board of Equalization to post the per-acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its
SECTION 1. Chapter 6.3 (commencing with Section 51040) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

Chapter 6.3. Urban Agriculture Incentive Zones

51040. This chapter shall be known, and may be cited, as the Urban Agriculture Incentive Zones Act.

51040.1. The Legislature finds and declares that it is in the public interest to promote sustainable urban farm enterprise sectors in urban centers. The Legislature further finds and declares the small-scale, active production of marketable crops and animal husbandry, including, but not limited to, foods, flowers, and seedlings, in urban centers is consistent with, and furthers, the purposes of this act.

51040.3. For purposes of this chapter, the following terms have the following meanings:

(a) “Urban” means an area within the boundaries of an urbanized area, as that term is used by the United States Census Bureau, that includes at least 250,000 people.

(b) “Urban Agriculture Incentive Zone” means an area within a county or a city and county that is comprised of individual properties designated as urban agriculture preserves by the county or the city and county for farming purposes.

(c) “Agricultural use” means farming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry, agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

51042. (a) (1) (A) A county or city and county may, after a public hearing, establish by ordinance an Urban Agriculture Incentive Zone within its boundaries for the purpose of entering into enforceable contracts with landowners, on a voluntary basis, for the use of vacant, unimproved, or blighted lands for small-scale agricultural use.

(B) A city may, after a public hearing and approval from the board of supervisors of the county in which the city is located, establish by ordinance an Urban Agriculture Incentive Zone within its boundaries for the purpose of entering into enforceable contracts with landowners, on a voluntary basis,
for the use of vacant, unimproved, or blighted lands for small-scale agricultural use.

(2) Following the adoption of the ordinance pursuant to paragraph (1), a city, county, or city and county that has established an Urban Agriculture Incentive Zone within its boundaries may adopt rules and regulations consistent with the city, county, or city and county’s zoning and other ordinances, for the implementation and administration of the Urban Agriculture Incentive Zone and of contracts related to that Urban Agriculture Incentive Zone.

(A) The city, county, or city and county may impose a fee upon contracting landowners for the reasonable costs of implementing and administering contracts.

(B) The city, county, or city and county shall impose a fee equal to the cumulative value of the tax benefit received during the duration of the contract upon landowners for cancellation of any contract prior to the expiration of the contract, unless the city, county, or city and county makes a determination that the cancellation was caused by extenuating circumstances despite the good faith effort by the landowner.

(b) Following the adoption of the ordinance as required by subdivision (a), a city, county, or a city and county may enter into a contract with a landowner to enforceably restrict the use of the land subject to the contract to uses consistent with urban agriculture. Any contract entered into pursuant to this chapter shall include, but is not limited to, all of the following provisions:

(1) An initial term of not less than five years.

(2) A restriction on property that is at least 0.10 acres, and not more than three acres.

(3) A requirement that the entire property subject to the contract shall be dedicated toward commercial or noncommercial agricultural use.

(4) A prohibition against any dwellings on the property while under contract.

(5) A notification that if a landowner cancels a contract, a city, county, or city and county is required to assess a cancellation fee, pursuant to subparagraph (B) of paragraph (2) of subdivision (a).

(c) A contract entered into pursuant to this chapter shall not prohibit the use of structures that support agricultural activity, including, but not limited to, toolsheds, greenhouses, produce stands, and instructional space.

(d) A contract entered into pursuant to this chapter that includes a prohibition on the use of pesticide or fertilizers on properties under contract shall permit those pesticides or fertilizers allowed by the United States Department of Agriculture’s National Organic Program.

(e) A city, county, or city and county shall not enter into a new contract, or renew an existing contract pursuant to this chapter after January 1, 2019. Any contract entered into pursuant to this chapter on or before January 1, 2019, shall be valid and enforceable for the duration of the contract.
(f) Property subject to a contract entered into pursuant to this chapter shall be assessed pursuant to Section 422.7 of the Revenue and Taxation Code during the term of the contract.

(g) A county or a city and county shall not establish an Urban Agriculture Incentive Zone within any portion of the spheres of influence of a city unless the legislative body of the city has consented to the establishment of the Urban Agriculture Incentive Zone.

(h) A city, county, or city and county shall not establish an Urban Agriculture Incentive Zone in any area that is currently subject to, or has been subject to within the previous three years, a contract pursuant to the Williamson Act (Article 1 (commencing with Section 51200) of Chapter 7 of Part 1 of Division 1 of Title 5).

SEC. 2. Section 402.1 of the Revenue and Taxation Code is amended to read:

402.1. (a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

1. Zoning.
2. Recorded contracts with governmental agencies other than those provided in Sections 422, 422.5, and 422.7.
3. Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.
4. Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.
5. Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.
6. Environmental constraints applied to the use of land pursuant to provisions of statutes.
8. A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.
9. A solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190) of Part 1 of Division 1 of Title 5 of the Government Code.

(b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will
substantially equate the value of the land to the value attributable to the legally permissible use or uses.

(c) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.

(d) In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.

(e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

(f) For the purposes of this section the following definitions apply:

(1) “Comparable lands” are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

(2) “Representative sales information” is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

(g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land that legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. This statute shall not be construed as requiring the assessment of any land at a value less than as required by Section 401 or as prohibiting the use of representative comparable sales information on land under similar restrictions when this information is available.

SEC. 3. Section 422.7 is added to the Revenue and Taxation Code, to read:

422.7. (a) For purposes of this section, the term “open-space land” includes land subject to contract for an urban agricultural incentive zone, as defined in subdivision (b) of Section 51040.3 of the Government Code.
For purposes of this section, open-space land is enforceably restricted within the meaning of Section 8 of Article XIII of the California Constitution if it is subject to an urban agriculture incentive zone contract.

(b) (1) Open-space land subject to contract for an urban agricultural incentive zone pursuant to Section 52010.3 shall be valued for assessment at the rate based on the average per-acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture.

(2) Notwithstanding the published rate, the valuation resulting from the section shall not exceed the lesser of either the valuation that would have resulted by a calculation under Section 110, or the valuation that would have resulted by a valuation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(c) The State Board of Equalization shall post the per-acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its Internet Web site within 30 days of publication, and shall provide the rate to county assessors no later than January 1 of each assessment year.
RESOLUTION NO. 66,243–N.S.

SUPPORT OF ASSEMBLY BILL 551, ALLOWING A COUNTY OR A CITY TO ESTABLISH URBAN AGRICULTURE INCENTIVES ZONES (UAIZ) FOR THE PURPOSE OF SUPPORTING URBAN AGRICULTURE

WHEREAS, in urban spaces, unused land and vacant properties can be transformed to small scale farms and green spaces; and

WHEREAS, the implementation of UAIZs will generate more green spaces in our cities and create environmentally sustainable farms that co-exists with local eco-systems; and

WHEREAS, as one-fifth of the country’s overall petroleum use is used for agriculture\(^1\), consuming and purchasing locally grown food is shown to decrease the use and dependence on petroleum; and

WHEREAS, UAIZs are a direct solution to food deserts—districts with little or no access to fresh and affordable food. In California alone, nearly one million people live in food deserts and a startling 13.5 million Americans reside in food deserts\(^2\); and

WHEREAS, the lack of affordable fresh and healthy food (due to distance and/or financial capacity) is associated with high risks of obesity and malnutrition that targets mainly low-income and working class families\(^3\); and

WHEREAS, access to health is a human right, and lack of open green space and fresh food is detrimental to our communities and our youth; and

WHEREAS, Assembly Bill (AB) 551, authored by Assemblymember Phil Ting, would allow a county or a city to establish by ordinance an Urban Agriculture Incentive Zone for the purpose of supporting urban agriculture.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby supports the Assembly Bill 551, Urban Agriculture Incentive Zones, so that vacant urban spaces can be utilized to create urban farms.

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to Senator Pro Tem Darrell Steinberg, Senator Loni Hancock, Assembly Speaker John A. Pérez, and Assembymembers Nancy Skinner and Phil Ting.

* * * * *

\(^1\) "California Watch. "Nearly 1 million Californians Living in ‘food deserts’"<http://livinggreen.ifas.ufl.edu/food/local.html#csa>
\(^2\) University of Florida, "Locally Grown Food." <http://livinggreen.ifas.ufl.edu/food/local.html>
\(^3\) ibid.
The foregoing Resolution was adopted by the Berkeley City Council on June 25, 2013 by the following vote:


Nees: None

Absent: None.

Attest: ____________________________

Mark Numairville, CMC, City Clerk

______________________________

Tom Bates, Mayor
On September 28, 2013, Governor Jerry Brown signed into law the Urban Agriculture Incentive Zones Act (Assembly Bill 551), introduced by Assembly Member Philip Ting. The law, which will take effect on January 1, 2014, aims to accomplish two things: increase the use of privately owned, vacant land for urban agriculture and improve land security for urban agriculture projects. The legislation does this by allowing city governments, with approval from their county board of supervisors, to designate areas within their boundaries as “urban agriculture incentive zones.” This UC ANR Policy Brief provides a guide to understanding and implementing the law at the city and county level.

Parcel Eligibility
Within any given Urban Agriculture Incentive Zone (UAIZ), parcels are only eligible for UAIZ contracts if they are:

- At least 0.1 acre in size and no larger than 3 acres (between 4,356 and 130,680 square feet)
- Completely dedicated toward commercial or noncommercial agricultural use
- Free of any dwellings and only have physical structures that support the agricultural use of the site
- Have an initial term of at least five years.

It’s important to note that the establishment of a UAIZ does not change anything in existing local zoning codes regarding where urban agriculture is and is not permitted.

The Benefits of Urban Agriculture to a City and County
Urban agriculture provides numerous benefits not only to those growing food, but also to the cities and counties in which it happens. City gardening and farming offers public benefits such as vibrant green spaces and recreation, education about fresh food and the effort it takes to produce it, ecological benefits for the city, sites that help build community, and a potential source of modest economic development.

Urban agriculture can take many forms and the state legislation defines agricultural use for purposes of an Urban Agriculture Incentive Zone as:

[F]arming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry, agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

---

1 The full text of the law is available at:
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB551

2 For an examination of the benefits with the City of San Francisco as a case study, see: SPUR, Public Harvest, April 2012, 5-8, http://www.spur.org/publications/library/report/public-harvest.
How to Create an Urban Agriculture Incentive Zone

To create an Urban Agriculture Incentive Zone, a county, usually in conjunction with a city, must designate the geographic boundaries of the zone. Local jurisdictions can create one large zone covering a broad geography or they can create multiple smaller ones. Additionally, the local jurisdictions must create the administrative process for how to process and enforce UAIZ contracts between the landowners and the local government.

Within city boundaries:

Inside incorporated areas of California, a UAIZ is created by a two-step process, requiring action by both the city and county governments. Either the city council or the county Board of Supervisors can begin the process. If started by a city council, the process requires an ordinance passed by the city council and a resolution signifying the Board of Supervisors’ approval. If started by the Board of Supervisors, the process requires an ordinance from the Board of Supervisors and a resolution signifying the relevant city council’s approval.

Option 1: a) City Council Ordinance - > b) BOS Resolution of Approval -> UAIZ Created
Option 2: a) BOS ordinance -> b) City Council resolution of approval - > UAIZ Created

In unincorporated areas, the creation of UAIZ only requires the passage of an ordinance by the Board of Supervisors.

In addition to designating the physical boundaries of a UAIZ, the initial implementing legislation should also establish a process by which landowners can apply to put their land under contract. This administrative process of establishing a contract is determined by local ordinance. Given the purview of the law, creation will likely involve coordination with the office of the County Assessor, the State Board of Equalization and local planning department (city and/or county) and possibly also the County Agricultural Commissioner. As of writing, no local jurisdiction in California has yet established a UAIZ so there is no precedent for the administrative process.

The legislation also gives local jurisdictions the ability to impose fees to cover the costs of implementing and administering the contracts.

Where Urban Agriculture Incentive Zones are Permitted

The state legislation permits urban agriculture incentive zones to only be established in “urban areas,” as defined by the US Census, with populations of 250,000 or more. This definition encompasses most of the major cites of California as well as their adjacent suburbs. See Appendix A for the list of qualifying urban areas based on the 2010 census and links to the maps delineating their boundaries. Cities and counties are not allowed to create urban agriculture incentive zones in areas that fall outside of the boundaries these “urban areas”.

Additionally, cities and counties may not establish a UAIZ in any area that has been covered by a Williamson Act contract within the preceding three years.

---

3 San Francisco, which is the only combined city and county in California, is the one exception to this rule.
4 More information about the US Census definition of urban areas is available at: www.census.gov/geo/reference/ua/urban-rural-2010.html
5 Williamson Act contracts provide a tax incentive to preserve agricultural land. More information at: http://conservation.ca.gov/dlrp/LCA/Pages/Index.aspx. For a list of areas covered by the Williamson Act, contact your county assessor’s office.
Change in Property Tax Assessment
Each year the assessment basis for land under the Urban Agriculture Incentive Zone (UAIZ) contract will be based on the annual average per acre value of irrigated cropland in California as reported by the US Department of Agriculture’s National Agricultural Statistics Service. This information will be posted annually on the Board of Equalization’s website and communicated to Assessors by January 1. In 2012, this was $12,000 per acre. The assessment will be adjusted proportionally to reflect the acreage under contract. The difference between a parcel’s current property tax assessment and that under a contract will differ parcel-by-parcel.

The UAIZ property under contract will be assessed annually, as of each lien date (January 1), at the lower of these three values

1) the urban ag incentive zone assessment based on the per acre rate (described in the preceding paragraph)
2) the property tax assessment as normally assessed under existing law

In short, entering into a UAIZ contract can lower a landowner’s property tax assessment, but not raise it.

The Assessor will perform their assessment only for properties that have a signed contract by all parties as of the January 1 lien date. Contracts signed after January 1, will be assessed utilizing the UAIZ methodology on the following lien date. For example, a property with a contract signed and recorded after January 1, 2013 and delivered to the Assessor on April 1, 2014 would not be processed by the Assessor until after July 1, 2014 for the following lien year. The first year of the tax benefit would be in the tax bill received in the fall of 2015.

UAIZ benefits are limited to the land portion of the property’s assessment. The UAIZ reduction in assessment does not apply to the assessment of any pre-existing or subsequently constructed structures that support the agricultural use of the site. Additionally, any business personal property related to the property remains subject to property tax.

Penalty for Contract Cancellation
If a landowner breaks the five-year contract, the state law requires that they pay back the tax benefit that they received, unless the city and county make “a determination that the cancellation was caused by extenuating circumstances despite the good faith effort by the landowner.”

Sunset Clause
Unless the law is amended by the state legislature, no UAIZ contracts can be signed after January 1, 2019.
Appendix A: US Census Urban Areas in California with More than 250,000 People

Many of these Census-defined “urban areas” boundaries include suburbs beyond and/or between the cities listed in the name. To see the exact boundary of the urban area, download the map from the US Census at: [http://www.census.gov/geo/maps-data/maps/2010ua.html](http://www.census.gov/geo/maps-data/maps/2010ua.html)

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Los Angeles--Long Beach--Anaheim, CA</td>
<td>12,150,996</td>
</tr>
<tr>
<td>San Francisco--Oakland, CA</td>
<td>3,281,212</td>
</tr>
<tr>
<td>San Diego, CA</td>
<td>2,956,746</td>
</tr>
<tr>
<td>Riverside--San Bernardino, CA</td>
<td>1,932,666</td>
</tr>
<tr>
<td>Sacramento, CA</td>
<td>1,723,634</td>
</tr>
<tr>
<td>San Jose, CA</td>
<td>1,664,496</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td>654,628</td>
</tr>
<tr>
<td>Concord, CA</td>
<td>615,968</td>
</tr>
<tr>
<td>Mission Viejo--Lake Forest--San Clemente, CA</td>
<td>583,681</td>
</tr>
<tr>
<td>Bakersfield, CA</td>
<td>523,994</td>
</tr>
<tr>
<td>Murrieta--Temecula--Menifee, CA</td>
<td>441,546</td>
</tr>
<tr>
<td>Stockton, CA</td>
<td>370,583</td>
</tr>
<tr>
<td>Oxnard, CA</td>
<td>367,260</td>
</tr>
<tr>
<td>Modesto, CA</td>
<td>358,172</td>
</tr>
<tr>
<td>Indio--Cathedral City, CA</td>
<td>345,580</td>
</tr>
<tr>
<td>Lancaster--Palmdale, CA</td>
<td>341,219</td>
</tr>
<tr>
<td>Victorville--Hesperia, CA</td>
<td>328,454</td>
</tr>
<tr>
<td>Santa Rosa, CA</td>
<td>308,231</td>
</tr>
<tr>
<td>Antioch, CA</td>
<td>277,634</td>
</tr>
<tr>
<td>Santa Clarita, CA</td>
<td>258,653</td>
</tr>
</tbody>
</table>


This document was developed as part of UC ANR: A Resource for Urban Agriculture, a project funded through the UC ANR 2012 Competitive Grants Program which develops educational resources for California’s urban farmers and local policy makers addressing urban agriculture issues. Special thanks to project team member Eli Zigas, Food Systems and Urban Agriculture Program Manager, SPUR, for developing this policy brief. For more information about the UCANR Urban Agriculture Project, contact Principal Investigator Rachel Surls, Sustainable Food Systems Advisor, UC Cooperative Extension-Los Angeles County at ramsbie@ucanr.edu.

The University of California Division of Agriculture & Natural Resources (ANR) prohibits discrimination against or harassment of any person participating in any of ANR’s programs or activities on the basis of race, color, national origin, religion, sex, gender identity, pregnancy (which includes pregnancy, childbirth, and medical conditions related to pregnancy or childbirth), physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994: service in the uniformed services includes membership, application for membership, performance for service, application for service, or obligation for service in the uniformed services) or any person in any of its programs or activities.

University policy also prohibits retaliation against any employee or person participating in any of ANR’s programs or activities for bringing a complaint of discrimination or harassment pursuant to this policy. This policy is intended to be consistent with the provisions of applicable State and Federal laws.

Inquiries regarding the University’s equal employment opportunity policies may be directed to Linda Marie Manton, Affirmative Action Contact, University of California Agriculture and Natural Resources, 2801 Second Street, Davis, CA, 95618-7774, 530-750-1318.
This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.

April 15, 2014

Legend
- Vacant Parcels
- Zoning Districts
  - C-DMU Core
  - C-DMU Outer Core
  - C-DMU Corridor
  - C-DMU Buffer
  - C-1
  - C-E
  - C-N
  - C-NS
  - C-SA
  - C-SO
  - C-T
  - C-W
  - ES-R
  - M
  - MM
  - MULTI
  - MUR
  - R-1
  - R-1A
  - R-2
  - R-2A
  - R-3
  - R-4
  - R-5
  - R-S
  - R-SMU
  - SP
  - U

Path: G:\LANDUSE\Staff Folders\Julian B\GIS\MXD Maps\Template_Lett_Landscape.mxd
Bill Text - AB-551 Local government: urban agriculture incentive...  http://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml

Item 11 - Attachment 2
Planning Commission
October 15, 2014

AB-551 Local government: urban agriculture incentive zones. (2013-2014)

Assembly Bill No. 551

CHAPTER 406

An act to add Chapter 6.3 (commencing with Section 51040) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Section 402.1 of, and to add Section 422.7 to, the Revenue and Taxation Code, relating to local government.

[ Approved by Governor September 28, 2013. Filed with Secretary of State September 28, 2013. ]

LEGISLATIVE COUNSEL’S DIGEST

AB 551, Ting. Local government: urban agriculture incentive zones.

(1) Existing law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law authorizes the parties to a Williamson Act contract to mutually agree to rescind a contract under the act in order to simultaneously enter into an open-space easement for a certain period of years.

This bill would enact the Urban Agriculture Incentive Zones Act and would authorize, under specified conditions and until January 1, 2019, a city, county, or city and county and a landowner to enter into a contract to enforceably restrict the use of vacant, unimproved, or otherwise blighted lands for small-scale production of agricultural crops and animal husbandry. The bill would require a contract entered into pursuant to these provisions to, among other things, be for a term of no less than 5 years and to enforceably restrict property that is at least 0.10 acres in size.

(2) Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected. Under existing law these restrictions include, but are not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would require the county assessor to value property that is enforceably restricted by a contract entered into pursuant to the Urban Agriculture Incentive Zones Act at the rate based on the average per-acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture. The bill would also require the State Board of Equalization to post the per-acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its Internet Web site within 30 days of publication, and to provide the rate to county assessors no later than January 1 of each assessment year.

Vote: majority  Appropriation: no  Fiscal Committee: yes  Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 6.3 (commencing with Section 51040) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:
CHAPTER 6.3. Urban Agriculture Incentive Zones

51040. This chapter shall be known, and may be cited, as the Urban Agriculture Incentive Zones Act.

51040.1. The Legislature finds and declares that it is in the public interest to promote sustainable urban farm enterprise sectors in urban centers.

The Legislature further finds and declares the small-scale, active production of marketable crops and animal husbandry, including, but not limited to, foods, flowers, and seedlings, in urban centers is consistent with, and furthers, the purposes of this act.

51040.3. For purposes of this chapter, the following terms have the following meanings:

(a) “Urban” means an area within the boundaries of an urbanized area, as that term is used by the United States Census Bureau, that includes at least 250,000 people.

(b) “Urban Agriculture Incentive Zone” means an area within a county or a city and county that is comprised of individual properties designated as urban agriculture preserves by the county or the city and county for farming purposes.

(c) “Agricultural use” means farming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry, agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

51042. (a) (1) (A) A county or city and county may, after a public hearing, establish by ordinance an Urban Agriculture Incentive Zone within its boundaries for the purpose of entering into enforceable contracts with landowners, on a voluntary basis, for the use of vacant, unimproved, or blighted lands for small-scale agricultural use.

(B) A city may, after a public hearing and approval from the board of supervisors of the county in which the city is located, establish by ordinance an Urban Agriculture Incentive Zone within its boundaries for the purpose of entering into enforceable contracts with landowners, on a voluntary basis, for the use of vacant, unimproved, or blighted lands for small-scale agricultural use.

(2) Following the adoption of the ordinance pursuant to paragraph (1), a city, county, or city and county that has established an Urban Agriculture Incentive Zone within its boundaries may adopt rules and regulations consistent with the city, county, or city and county’s zoning and other ordinances, for the implementation and administration of the Urban Agriculture Incentive Zone and of contracts related to that Urban Agriculture Incentive Zone.

(A) The city, county, or city and county may impose a fee upon contracting landowners for the reasonable costs of implementing and administering contracts.

(B) The city, county, or city and county shall impose a fee equal to the cumulative value of the tax benefit received during the duration of the contract upon landowners for cancellation of any contract prior to the expiration of the contract, unless the city, county, or city and county makes a determination that the cancellation was caused by extenuating circumstances despite the good faith effort by the landowner.

(b) Following the adoption of the ordinance as required by subdivision (a), a city, county, or a city and county may enter into a contract with a landowner to enforceably restrict the use of the land subject to the contract to uses consistent with urban agriculture. Any contract entered into pursuant to this chapter shall include, but is not limited to, all of the following provisions:

(1) An initial term of not less than five years.

(2) A restriction on property that is at least 0.10 acres, and not more than three acres.

(3) A requirement that the entire property subject to the contract shall be dedicated toward commercial or noncommercial agricultural use.

(4) A prohibition against any dwellings on the property while under contract.
A notification that if a landowner cancels a contract, a city, county, or city and county is required to assess a cancellation fee, pursuant to subparagraph (B) of paragraph (2) of subdivision (a).

(c) A contract entered into pursuant to this chapter shall not prohibit the use of structures that support agricultural activity, including, but not limited to, toolsheds, greenhouses, produce stands, and instructional space.

(d) A contract entered into pursuant to this chapter that includes a prohibition on the use of pesticide or fertilizers on properties under contract shall permit those pesticides or fertilizers allowed by the United States Department of Agriculture’s National Organic Program.

(e) A city, county, or city and county shall not enter into a new contract, or renew an existing contract pursuant to this chapter after January 1, 2019. Any contract entered into pursuant to this chapter on or before January 1, 2019, shall be valid and enforceable for the duration of the contract.

(f) Property subject to a contract entered into pursuant to this chapter shall be assessed pursuant to Section 422.7 of the Revenue and Taxation Code during the term of the contract.

(g) A county or a city and county shall not establish an Urban Agriculture Incentive Zone within any portion of the spheres of influence of a city unless the legislative body of the city has consented to the establishment of the Urban Agriculture Incentive Zone.

(h) A city, county, or city and county shall not establish an Urban Agriculture Incentive Zone in any area that is currently subject to, or has been subject to within the previous three years, a contract pursuant to the Williamson Act (Article 1 (commencing with Section 51200) of Chapter 7 of Part 1 of Division 1 of Title 5).

SEC. 2. Section 402.1 of the Revenue and Taxation Code is amended to read:

402.1. (a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

(1) Zoning.

(2) Recorded contracts with governmental agencies other than those provided in Sections 422, 422.5, and 422.7.

(3) Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.

(4) Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.

(5) Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.

(6) Environmental constraints applied to the use of land pursuant to provisions of statutes.

(7) Hazardous waste land use restriction pursuant to Section 25240 of the Health and Safety Code.

(8) A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(9) A solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190) of Part 1 of Division 1 of Title 5 of the Government Code.

(b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

(c) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and
unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.

(d) In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.

(e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

(f) For the purposes of this section the following definitions apply:

1. “Comparable lands” are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

2. “Representative sales information” is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

(g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land that legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. This statute shall not be construed as requiring the assessment of any land at a value less than as required by Section 401 or as prohibiting the use of representative comparable sales information on land under similar restrictions when this information is available.

SEC. 3. Section 422.7 is added to the Revenue and Taxation Code, to read:

422.7. (a) For purposes of this section, the term “open-space land” includes land subject to contract for an urban agricultural incentive zone, as defined in subdivision (b) of Section 51040.3 of the Government Code. For purposes of this section, open-space land is enforceably restricted within the meaning of Section 8 of Article XIII of the California Constitution if it is subject to an urban agriculture incentive zone contract.

(b) (1) Open-space land subject to contract for an urban agricultural incentive zone pursuant to Section 52010.3 shall be valued for assessment at the rate based on the average per-acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture.

(2) Notwithstanding the published rate, the valuation resulting from the section shall not exceed the lesser of either the valuation that would have resulted by a calculation under Section 110, or the valuation that would have resulted by a valuation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(c) The State Board of Equalization shall post the per-acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its Internet Web site within 30 days of publication, and shall provide the rate to county assessors no later than January 1 of each assessment year.
Ordinance amending the Administrative Code, by adding Chapter 53A, creating local procedures to implement the Urban Agriculture Incentive Zones Act, including establishing the City's Urban Agriculture Incentive Zone; and making environmental findings.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font. Asterisks (* * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. General Findings.

(a) Urban agriculture provides multiple benefits to San Franciscans. It connects City residents to the broader food system, provides green space and recreation, may save public agencies money, provides ecological benefits and green infrastructure, builds community, and offers food access, public health, and economic development potential.

(b) Two of the largest obstacles to the sustained growth of urban agriculture within San Francisco are access to land and secure land tenure.

(c) By creating an Urban Agriculture Incentive Zone and program, the City of San Francisco aims to encourage owners of private, vacant, undeveloped land to commit their land into urban agricultural use for at least five years, thereby providing public benefits to the City as well as land access and land security for City farmers and gardeners.
Section 2. Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 140702, and the Board hereby incorporates this determination by reference and adopts it as its own.

Section 3. Findings Under the Urban Agriculture Incentive Zones Act (California Government Code 51040.3(a)).
(a) The entire City and County of San Francisco falls within an “urbanized area”, as defined by the United States Census Bureau, with a combined total population of more than 250,000 people.
(b) No land within the boundaries of the proposed Urban Agriculture Incentive Zone, as described in section 53A.2 below, is currently subject to, or has been subject to within the previous three years, a contract pursuant to the Williamson Act (California Government Code Section 51200).

Section 4. The Administrative Code is hereby amended by adding new Chapter 53A, to read as follows:

**CHAPTER 53A URBAN AGRICULTURE INCENTIVE ZONES ACT PROCEDURES**

Sec. 53A.1. Purpose.

Sec. 53A.2. Establishment of Urban Agriculture Incentive Zone.

Sec. 53A.3. Certificate of Eligibility.

Sec. 53A.4. Application for a Contract.

Sec. 53A.5. Approval Process.

Sec. 53A.6. Terms of the Contract.
Sec. 53A.7. Site Inspection.

Sec. 53A.8. Contract Cancellation.


Sec. 53A.10. Outreach and Education.

Sec. 53A.11. Sunset Provision.

SEC. 53A.1. PURPOSE.

(a) This Chapter 53A implements the Urban Agriculture Incentive Zones Act, California Government Code Sections 51040 et seq. The Urban Agriculture Incentive Zones Act authorizes local governments to enter into enforceable contracts with owners of private property for the purpose of promoting the use of vacant, unimproved, or blighted lands for small-scale agricultural use. As consideration for promoting the public interest in sustainable urban farm enterprise sectors in urban centers, the City and County of San Francisco may provide certain property tax reductions in accordance with Article 1.5 (commencing with Section 422.7) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

(b) Implementation of the Urban Agriculture Incentive Zones Act will make the benefits of the Act available to owners of eligible property in San Francisco.

(c) The benefits of the Urban Agriculture Incentive Zones Act to the individual property owners and the City generally must be balanced with the cost to the City of providing the potential property tax reductions set forth in the Urban Agriculture Incentive Zones Act.

SEC. 53A.2. ESTABLISHMENT OF URBAN AGRICULTURE INCENTIVE ZONE.

An Urban Agriculture Incentive Zone, pursuant to California Government Code Section 51040 et seq., the boundaries of which include the entirety of the City and County of San Francisco, is hereby established for the City and County of San Francisco for the purpose of entering into enforceable contracts with landowners, on a voluntary basis, for the use of vacant, unimproved, or blighted lands for small-scale agricultural use.
SEC. 53A.3. CERTIFICATE OF ELIGIBILITY.

(a) An owner, or an authorized agent of the owner, of an eligible urban agriculture incentive zone property may apply for an urban agriculture incentive zone contract ("Contract"). For purposes of this Chapter 53A, "eligible urban agriculture incentive zone property" shall mean a privately owned lot or parcel that is not exempt from property taxation and:

(1) is located within a zoning district where Neighborhood Agricultural or Large-Scale Urban Agricultural Uses as defined in Planning Code Section 102 are principally or conditionally permitted uses;

(2) is at least 0.10 acres and not more than three acres in size;

(3) does not include any dwelling units; and

(4) includes only structures that are accessory to the agricultural activity, including, but not limited to toolsheds, greenhouses, produce stands, or educational space.

(b) Determination of Eligibility: The property owner shall seek a determination from the Planning Department that the property is an eligible urban agriculture incentive zone property. The property owner shall provide, at a minimum, the address and location of the property and evidence that the property is an eligible urban agriculture incentive zone property as described in Subsection 53A.3(a). The Planning Department shall make an over-the-counter determination as to whether the property is an eligible urban agriculture incentive zone property. If the property is eligible, the Planning Department shall provide a certificate of eligibility to the property owner. The certificate of eligibility is not a permit to commence any work or a change in use. Permits from appropriate departments must be secured before work is started or use is changed.

SEC. 53A.4. APPLICATION FOR A CONTRACT.

(a) Application for a Contract: After obtaining a certificate of eligibility for the property, the property owner shall submit an application for a Contract, including but not limited to the certificate of eligibility, any required documentation regarding the property described in section 53A.3(b), and a
description of the intended agricultural use of the property including current and proposed site plans
and a development schedule for the property, to the Agricultural Commissioner on forms provided by
the Agricultural Commissioner.

(b) Application Deadlines. For calendar year 2014, the deadline to submit an application for
a Contract to the Agricultural Commissioner shall be October 1. Thereafter, the deadlines to submit an
application for a Contract to the Agricultural Commissioner shall be March 1, June 1, and August 1.

(c) Additional Applications and Approvals. As required by the Planning Code or other
provisions of the Municipal Code, the property owner shall also apply for and obtain any necessary
change of use permit, conditional use permit, or other approvals required to conduct the proposed
agricultural uses on the property prior to execution of any approved Contract by the Agricultural
Commissioner. Nothing in this Chapter shall be construed as limiting the application or requirements
of any and all applicable provisions of state law and this Code, including but not limited to the
requirements of the Planning Code.

SEC. 53A.5. APPROVAL PROCESS.

(a) Agricultural Commissioner Review. The Agricultural Commissioner shall review the
Contract application within 30 days of the application deadline. The Agricultural Commissioner shall
determine whether the application includes either plans for or proof of existing activities that
demonstrate:

(1) conformance with the definition of urban agriculture as detailed in the Urban
Agriculture Incentive Zones Act (California Government Code Section 51040.3(c));

(2) that the entire property is dedicated to agricultural use. The Agricultural
Commissioner shall consider whether certain site features support agricultural use of the site,
including but not limited to: educational space; preparation, washing, and harvest areas; storage
space; and vehicle access areas. These types of site features shall not preclude approval of a Contract
as long as the features are accessory to the agricultural use and permitted under the Planning Code on
the property proposed for Contract; and

(3) the site is periodically open to members of the public through any of the following:

(A) agricultural education or outreach on site such as classes, workshops, or
visits by school groups;

(B) periodic distribution of agricultural products (such as, for example, produce,
flowers, eggs, or honey) from the site, via donation or sales; or

(C) the site is managed as a community garden that has hours when the site is
open to the general public.

In determining that the plans or existing activities conform with the intent of the law, the
Agricultural Commissioner is to be guided by the City’s intent that a Contract shall be used to
incentivize farming and gardening that has a public benefit, either through the distribution of food
grown on the site to members of the public other than the property owner or operator and their
immediate families; economic activity through the sale of the food produced on site; or education that
occurs from people learning from the agriculture on site. Benefits such as providing food solely for the
property owner or operator and their immediate families; site beautification; or provision of green
space for the public, shall not constitute sufficient agricultural use to be considered in conformance
with the intent of this ordinance.

(b) Assessor-Recorder Review. If the Agricultural Commissioner recommends initial approval
of the application, he or she shall forward the application to the Assessor-Recorder for review. Within
30 days of receipt, the Assessor-Recorder shall provide the Agricultural Commissioner with a report
estimating the yearly property tax revenue to the City under both the urban agriculture incentive zones
contract valuation method and under the standard valuation method and estimating the difference in
property tax assessments under the two valuation methods for the term of the proposed Contract. In
making this estimate, the Assessor-Recorder shall use the current-year Board of Equalization published
tax rate.

(c) Agricultural Commissioner Approval. A Contract may be approved by the Agricultural
Commissioner at his or her sole discretion if approval of the proposed Contract would not result in: (1)
a tax revenue loss of more than $25,000 per year or more than $125,000 for the term of the contract, as
calculated based on the Assessor-Recorder’s estimate; (2) contiguous parcels totaling five acres or
more under contract at the same time; or (3) an estimated combined tax revenue loss for all properties
under Contract greater than $250,000 per year. If the Agricultural Commissioner disapproves an
application, such decision shall be final unless the property owner files an appeal with the Clerk of the
Board of Supervisors within 10 business days of the denial by the Agricultural Commissioner. If the
Agricultural Commissioner approves an application, he or she shall provide written notice of the
approval to the Clerk of the Board within five business days of the approval, and the Clerk of the Board
shall forward such notice to all members of the Board of Supervisors. In addition to information
regarding the specific Contract approved, such notice shall include the estimated combined tax revenue
loss to the City for all properties under Contract. Within 10 business days of receipt of such notice, any
member of the Board of Supervisors may introduce a resolution requesting Board review of the
approval. Approval of a Contract shall not be final until either: the time has passed for a member of
the Board to introduce a resolution requesting Board review without any member doing so; or, if a
Board member has introduced a resolution requesting review, the Board has held a hearing and
affirmed the Agricultural Commissioner’s approval of the Contract.

(d) Board of Supervisors Approval. Any proposed Contract not meeting the conditions set forth
in subsection (c) above for approval by the Agricultural Commission shall be forwarded by the
Agricultural Commissioner to the Clerk of the Board of Supervisors with a recommendation. The Board
of Supervisors shall conduct a public hearing to review the Agricultural Commissioner’s
recommendation, the Assessor-Recorder’s report, and any other information the Board requires in
order to determine whether the City should execute the proposed Contract. The Board of Supervisors may approve, disapprove, or modify and approve the Contract and shall have full discretion to determine whether it is in the public interest to enter into the proposed Contract.

(e) Following final approval of the Contract by the Agricultural Commissioner or the Board of Supervisors, the Agricultural Commissioner shall send written notification to the Assessor-Recorder and to the property owner. The Agricultural Commissioner shall execute the approved Contract upon his or her determination that the property owner has obtained all other required approvals for the proposed agricultural use, including but not limited to any required change of use or conditional use permit. Once executed, the property owner shall record the Contract against the property. Once the Contract is recorded against the property, the Assessor-Recorder shall apply the reduced property tax valuation methodology to the property at the next property tax lien date.

SEC. 53A.6. TERMS OF THE CONTRACT.

(a) The Contract shall set forth the agreement between the City and the property owner that as long as the property owner properly conducts permitted agricultural uses on the property as set forth in the Contract, the City shall comply with California Revenue and Taxation Code Article 1.5 of Chapter 3 of Part 2 of Division 1, commencing with Section 422.7, provided that the specific provisions of the Revenue and Taxation Code are applicable to the property in question. A Contract shall contain, at a minimum, the following provisions:

(1) The initial term of the Contract, which shall be for a minimum period of five years;

(2) The property owner's commitment and obligation to conduct permitted agricultural uses on the property in accordance with the requirements, rules, and regulations of the Urban Agriculture Incentive Zones Act, this Chapter 53A, the Planning Code, and the Contract;

(3) Permission to allow periodic examinations of the property under Contract by the Assessor-Recorder, the Department of Building Inspection, the Planning Department, the Agricultural
Commissioner, and the State Board of Equalization as may be necessary for tax assessment purposes or to determine the property owner's compliance with the Contract and state and local law:

(4) That the Contract is binding upon, and shall inure to the benefit of, all successors in interest to the property owner;

(5) Agreement that the Agricultural Commissioner or Board of Supervisors may cancel the Contract, or seek enforcement of the Contract in accordance with the cancellation provisions of Section 53A.8;

(6) That agricultural activity shall commence on the property within 30 days of the recordation of the Contract;

(7) That the property owner must report in writing to the Agricultural Commissioner any cessation of agricultural use for any reason, including but not limited to due to the loss of a tenant who was conducting agricultural uses on the property, within two weeks of the cessation of activity and that the property owner must resume agricultural activity within three months of any such cessation or face cancellation of the Contract.

(8) That the property is dedicated toward commercial or noncommercial agricultural use; and

(9) The property owner's indemnification of the City for, and agreement to hold the City harmless from, any claims arising from any use of the property.

(b) A Contract shall not prohibit structures that support agricultural activity, including but not limited to toolsheds, greenhouses, produce stands, and instructional space.

(c) Pursuant to the Urban Agriculture Incentive Zones Act as amended from time to time, a Contract may restrict the use of pesticides and/or fertilizers as long as it permits those pesticides or fertilizers allowed by the United States Department of Agriculture's National Organic Program.

(d) The City and the property owner shall comply with all provisions of the Urban Agriculture Incentive Zones Act, including amendments thereto, The Urban Agriculture Incentive Zones Act, as
amended from time to time, shall apply to the Contract process and shall be deemed incorporated into each Contract entered into by the City.

(e) The Agricultural Commissioner shall maintain a standard form "Urban Agriculture Incentive Zones Contract" containing all required provisions specified by this section and state law. Any modifications to the City's standard form contract made by the property owner shall be subject to approval by the City Attorney prior to consideration by the Agricultural Commissioner or the Board of Supervisors.

SEC. 53A. SITE INSPECTION.

(a) Within 90 days of Contract approval, the Agricultural Commissioner shall conduct a site inspection to verify the property owner's conformance to the terms of the Contract.

(b) During each subsequent year in which the Contract is in force, the Agricultural Commissioner shall conduct an annual site inspection to verify the property owner's conformance to the terms of the Contract.

(c) The Agricultural Commissioner's determination of conformance with the Contract shall be based on the criteria outlined in Section 53A.5(a) as well as:

(1) evidence of plants being cultivated as demonstrated by: active soil management, weeding, pruning, and other active farming and gardening techniques; and/or evidence of animal husbandry demonstrated by active bee hives, chicken coops, or other animal husbandry practices; and

(2) any specific requirements of the Contract.

SEC. 53A.8. CONTRACT CANCELLATION.

(a) If the Agricultural Commissioner finds that a property owner is in breach of the terms of the Contract, the Agricultural Commissioner shall notify in writing the Assessor-Recorder, the Planning Department, and the property owner of his or her intent to cancel the Contract. The property owner may file a written appeal of this determination with the Clerk of the Board of Supervisors within 30
days of notification. If the appeal is timely filed, the Clerk of the Board of Supervisors shall calendar
the appeal for hearing before the Board of Supervisors within 45 days of its filing.

(b) The cancellation shall become final within 30 days of notification if no appeal is filed or, if
an appeal is filed, on the date the Board of Supervisors upholds the cancellation. Once the appeal is
final, the Agricultural Commissioner shall submit written notice of the cancellation of the Contract to
the property owner, Assessor-Recorder, and Planning Department and shall record a notice of
cancellation of the Contract against the property.

(c) A property owner may cancel the Contract at any time by submitting written notice to the
Agricultural Commissioner and upon payment of any required fee pursuant to subsection (d) below.
The property owner shall record a notice of cancellation of the Contract against the property.

(d) Upon cancellation of any Contract prior to the expiration of its term, the property owner
shall pay to the Treasurer-Tax Collector a cancellation fee equal to the cumulative value of the tax
benefit received during the duration of the Contract, as determined by the Assessor-Recorder. This fee
shall include the cumulative tax owed, including interest. The property owner may appeal payment of
this fee to the Board of Supervisors either: (1) as part of any appeal of the cancellation if the
cancellation is initiated by the Agricultural Commission; or (2) through a separate appeal of the fee if
the cancellation is initiated by the property owner. Any separate appeal of the fee shall be filed with the
Clerk of the Board of Supervisors within 10 days of the property owner’s submittal of written
notification of cancellation under Subsection (c) above, and, if the appeal is timely filed, the Clerk of
the Board of Supervisors shall calendar the appeal for hearing within 45 days of filing. The Board of
Supervisors may waive payment of the fee, or any portion thereof, if it determines that the cancellation
was caused by extenuating circumstances despite the good faith effort by the landowner to comply with
the provisions of the Contract.

SEC. 53A.9. CONTRACT RENEWAL AND EXTENSION.
(a) Each year, by no later than October 15, the Agricultural Commissioner shall send each property owner with an existing Contract a request for: confirmation that the property owner intends to continue conforming to the Contract; documentation of any major modifications to the original application; and payment for any annual fees for the administration of the Contract.

(b) This request shall also include a form for the property owner to apply for an extension of the Contract for an additional term of up to five years, subject to the limitations provided in Section 53A.11. Any such extension application shall be subject to the same requirements as an initial application, as set forth above.

SEC. 53A.10. OUTREACH AND EDUCATION.

The Recreation and Park Department, through its Urban Agriculture Program, shall coordinate efforts with the Agricultural Commissioner to engage in community outreach and education regarding the Urban Agriculture Incentive Zones program and support the application and approval process. The Recreation and Park Department may assign staff to assist applicants in their initial assessment of their site and provide any needed technical assistance.

SEC. 53A.11. SUNSET PROVISION.

Pursuant to the Urban Agriculture Incentive Zones Act, the City shall not enter into a new Contract or renew an existing Contract after January 1, 2019, unless the Urban Agriculture Incentive Zones Act is amended to permit Contracts after that date. Notwithstanding the foregoing, any Contract entered into pursuant to the Urban Agriculture Incentive Zones Act and this Chapter 53A on or before January 1, 2019, shall be valid and enforceable for the duration of the Contract.

Section 5. Fee Report. Within one year of the effective date of this ordinance, the Agricultural Commissioner, in consultation with the Planning Department, the Assessor-Recorder, and the City Attorney’s Office, shall provide a report to the Board of Supervisors recommending the amount of fees to be paid to administer this program. Specifically, the
report shall recommend the amount of three potential fees: (1) a proposed fee to pay for the
time and materials required for the Planning Department to make an eligibility determination;
(2) a proposed fee to pay for the time and materials required to process an application for a
Contract, based upon the estimated actual costs to perform the work, including the costs of
the City Attorney, the Agricultural Commissioner, and the Assessor-Recorder; and (3) a
proposed fee to pay for the actual annual cost of inspecting a property under Contract and
determining compliance with the Contract.

Section 6. Effective Date. This ordinance shall become effective 30 days after
enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
of Supervisors overrides the Mayor’s veto of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: Marlena G. Byrne
Deputy City Attorney

n:\leganalas\2014\1400216\00940903.doc
Ordinance amending the Administrative Code, by adding Chapter 53A, creating local procedures to implement the Urban Agriculture Incentive Zones Act, including establishing the City's Urban Agriculture Incentive Zone; and making environmental findings.

July 21, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 21, 2014 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

July 22, 2014 Board of Supervisors - PASSED ON FIRST READING
  Ayes: 10 - Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee
  Excused: 1 - Avalos

July 29, 2014 Board of Supervisors - FINALLY PASSED
  Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 140702

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/29/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayo

Date Approved
This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.

April 15, 2014

Legend
Vacant Parcels

Zoning Districts
C-DMU Core
C-DMU Outer Core
C-DMU Corridor
C-DMU Buffer
C-1
C-E
C-N
C-NS
C-SA
C-SO
C-T
C-W
ES-R
M
MM
MULI
MUR
R-1
R-1A
R-2
R-2A
R-3
R-4
R-5
R-S
R-SMU
SP
U

Path: G:\LANDUSE\Staff Folders\Julian B\GIS\MXD Maps\Template_Lett._Landscape.mxd
AMENDMENT OF THE WHOLE

FILE NO. 101537

IN BOARD 4/5/11

ORDINANCE NO. 6-1

Planning Commission

October 15, 2014

[Planning Code Amendment – Urban Agriculture]

Ordinance amending the Planning Code to update controls related to urban agricultural uses by adding Section 102.3425 to define urban agriculture, including neighborhood agriculture and large-scale urban industrial agriculture, and amending Sections 204.1, 209.5, 227, 234.1, 234.2, and Articles 7 and 8 to regulate such uses in various zoning districts; and making findings including environmental findings and findings of consistency with General Plan and Section 101.1.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; Board amendment deletions are strikethrough normal.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board of Supervisors finds and declares as follows:

(a) The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 101537 and is incorporated herein by reference.

(b) On February 17, 2011, the Planning Commission, in Resolution No. 18276 approved and recommended for adoption by the Board this legislation and adopted findings that it is consistent, on balance, with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 101537, and is incorporated by reference herein.

Mayor Lee, Supervisor Mirkarimi, Mar, Cohen, Chiu

BOARD OF SUPERVISORS
(c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this legislation will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18276, and incorporates such reasons by reference herein.

Section 2. The San Francisco Planning Code is hereby amended to add Section 102.3435 and amend Sections 204.1, 209.5, 227, 234.1, 234.2, 703.2, 710.1, 711.1, 712.1, 713.1, 714.1, 715.1, 716.1, 717.1, 718.1, 719.1, 720.1, 721.1, 722.1, 723.1, 724.1, 725.1, 726.1, 727.1, 728.1, 729.1, 730.1, 731.1, 732.1, 733.1, 733A.1, 734.1, 735.1, 736.1, 737.1, 790.50, 803.2, 803.3, 810.1, 811.1, 812.1, 813, 814, 815, 816, 817, 818, 827, 829, 840, 841, 842, 843 and 890.50, to read as follows:

SEC. 102.3435. URBAN AGRICULTURE. Urban Agriculture shall be defined as follows:

(a) Neighborhood Agriculture.

A use that occupies less than 1 acre for the production of food or horticultural crops to be harvested, sold, or donated and comply with the controls and standards herein. The use includes, but is not limited to, home, kitchen, and roof gardens. Farms that qualify as Neighborhood Agricultural use may include, but are not limited to, community gardens, community-supported agriculture, market gardens, and private farms. Neighborhood Agricultural use may be principal or accessory use.

Limited sales and donation of fresh food and/or horticultural products grown on-site may occur on otherwise vacant property, but may not occur within a dwelling unit. Limited sales and donation of fresh food and/or horticultural products grown on site may occur on site, whether vacant or improved, but such sales may not occur within a dwelling unit. Food and/or horticultural products grown that are used for personal consumption are not regulated. The following physical and operational standards shall apply to Neighborhood Agriculture:

(1) Compost areas must be setback at least 3 feet from property lines.

Mayor Lee
BOARD OF SUPERVISORS
(2) If the farmed area is enclosed by fencing, the fencing must be: (A) wood fencing or, (B) ornamental fencing as defined by Planning Code Section 102.32, or (C) chain-link or woven wire fencing if over half of the fence area that borders a public right-of-way will be covered by plant material or other vegetative screening within three (3) years of the fence installation.

(3) Use of mechanized farm equipment is generally prohibited in residential districts; provided, however, that during the initial preparation of the land heavy equipment may be used to prepare the land for agriculture use. Landscaping equipment designed for household use shall be permitted.

(4) Farm equipment shall be enclosed or otherwise screened from sight;

(5) Sale of food and/or horticultural products from the use may occur between the hours of 6 a.m. and 8 p.m.;

(6) The sale of processed or value added goods is prohibited. In all districts, sales, pick-ups, and donations of fresh food and horticultural products grown on-site are permitted. In every district except "Residential Districts", value-added products, where the primary ingredients are grown and produced on-site, are permitted.

(b) Large-Scale Urban Industrial Agriculture.

The use of land for the production of food or horticultural crops to be harvested, sold, or donated that occur: (a)(1) on a plot of land 1 acre or larger or (b)(2) on smaller parcels that cannot meet the physical and operational standards for Neighborhood Agriculture.

(c) Water Conservation.

(1) Any plot of land that exceeds 1,000 square feet and is newly established for Neighborhood Agriculture or Large-Scale Urban Agriculture use shall comply with the applicable water use requirements of Administrative Code Chapter 63.

(2) Pursuant to Section 63.6.2 (b) of the Administrative Code, no permit for any site where the modified land area exceeds 1,000 square feet shall be issued until the General
Manager of the Public Utilities Commission has approved the applicable landscape project documentation.

SEC. 204.1. ACCESSORY USES FOR DWELLINGS IN R OR NC DISTRICTS.

No use shall be permitted as an accessory use to a dwelling unit in any R or NC District which involves or requires any of the following:

(a) Any construction features or alterations not residential in character;
(b) The use of more than ¼ of the total floor area of the dwelling unit, except in the case of accessory off-street parking and loading or Neighborhood Agriculture as defined by Section 102.3435:
(c) The employment of any person not resident in the dwelling unit, other than a domestic servant, gardener, janitor or other person concerned in the operation or maintenance of the dwelling unit;
(d) Residential occupancy by persons other than those specified in the definition of family in this Code;
(e) In RH-1(D), RH-1 and RH-1(S) Districts, the provision of any room for a roomer or boarder with access other than from within the dwelling unit;
(f) Addition of a building manager's unit, unless such unit meets all the normal requirements of this Code for dwelling units;
(g) The maintenance of a stock in trade other than garden produce related to Neighborhood Agriculture as defined by Section 102.3435, or the use of show windows or window displays or advertising to attract customers or clients; or
(h) The conduct of a business office open to the public other than sales related to garden produce of Neighborhood Agriculture as defined by Section 102.3435.

Provided, however, that Subsection (h) of this Section shall not exclude the maintenance within a dwelling unit of the office of a professional person who resides therein, if
accessible only from within the dwelling unit; and provided, further, that Subsection (g) shall
not exclude the display of signs permitted by Article 6 of this Code.

SEC. 209.5. OPEN RECREATION AND \textit{HORTICULTURE-URBAN AGRICULTURE}.

<table>
<thead>
<tr>
<th>R</th>
<th>R</th>
<th>R</th>
<th>R</th>
<th>R</th>
<th>R</th>
<th>R</th>
<th>T</th>
<th>T</th>
<th>C</th>
<th>C</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>H</td>
<td>H</td>
<td>H</td>
<td>H</td>
<td>H</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>O</td>
<td>O</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>O</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>-</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>(</td>
<td>(</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>M</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>S</td>
<td>)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SEC. 209.5. OPEN RECREATION AND \textit{HORTICULTURE-URBAN AGRICULTURE}.

<table>
<thead>
<tr>
<th>C</th>
<th>C</th>
<th>C</th>
<th>C</th>
<th>C</th>
<th>C</th>
<th>C</th>
<th>C</th>
<th>C</th>
<th>P</th>
<th>P</th>
<th>P</th>
</tr>
</thead>
</table>
| (a) Open recreation area not publicly owned which is not screened from public view, has no structures other than those necessary and incidental to the open land use, is not operated as a gainful business and is devoted to outdoor recreation such as golf, tennis or riding.

Mayor Lee
BOARD OF SUPERVISORS

Page 5
4/5/11
n:\land\as2011\0600557\00691476.doc
(b) Open space used for horticultural or passive recreational purposes which is not publicly owned and is not screened from public view, has no structures other than those necessary and incidental to the open land use, is not served by vehicles other than normal maintenance equipment, and has no retail or wholesale sales on the premises. Such open space may include but not necessarily be limited to a park, playground, plant nursery, rest area, community garden or neighborhood garden.

| C | C | C | C | C | C | C | C | C | C | C | P |

(c) Greenhouse, plant nursery, truck garden or other land or structure devoted to cultivation of plants of any kind, either with or without retail or wholesale sales on the premises. (With unpaginated text continues)
SEC. 227. OTHER USES.

<table>
<thead>
<tr>
<th>C-1</th>
<th>C-2</th>
<th>C-3-O</th>
<th>C-3-R</th>
<th>C-3-G</th>
<th>C-M</th>
<th>M-1</th>
<th>M-2</th>
<th>PD</th>
<th>R-1-G</th>
<th>R-1-D</th>
<th>PDR</th>
<th>P</th>
</tr>
</thead>
<tbody>
<tr>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

- (a) Greenhouse or plant nursery.

- (b) Truck gardening, horticulture, Urban Agriculture.

*Note: Respect to RC Districts, see also Section 209.9(d). (d) Neighborhood Agriculture.
(e) Large-Scale Urban Industrial Agriculture.