

File No. 140702

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 21, 2014

Board of Supervisors Meeting

Date _____

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Completed by: Andrea Ausberry Date July 17, 2014

Completed by: _____ Date _____

1 [Administrative Code - Urban Agriculture Incentive Zones Act Program and Procedures]

2
3 **Ordinance amending the Administrative Code, by adding Chapter 53A, creating local**
4 **procedures to implement the Urban Agriculture Incentive Zones Act, including**
5 **establishing the City's Urban Agriculture Incentive Zone; and making environmental**
6 **findings.**

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

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

15 Section 1. General Findings.

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

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

22 (c) By creating an Urban Agriculture Incentive Zone and program, the City of San
23 Francisco aims to encourage owners of private, vacant, undeveloped land to commit their
24 land into urban agricultural use for at least five years, thereby providing public benefits to the
25 City as well as land access and land security for City farmers and gardeners.

1 Section 2. Environmental Findings. The Planning Department has determined that the
2 actions contemplated in this ordinance comply with the California Environmental Quality Act
3 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
4 the Clerk of the Board of Supervisors in File No. 140702, and the Board hereby incorporates
5 this determination by reference and adopts it as its own.
6

7 Section 3. Findings Under the Urban Agriculture Incentive Zones Act (California
8 Government Code 51040.3(a)).

9 (a) The entire City and County of San Francisco falls within an "urbanized area", as
10 defined by the United States Census Bureau, with a combined total population of more than
11 250,000 people.

12 (b) No land within the boundaries of the proposed Urban Agriculture Incentive Zone, as
13 described in section 53A.2 below, is currently subject to, or has been subject to within the
14 previous three years, a contract pursuant to the Williamson Act (California Government Code
15 Section 51200).
16

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

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

20 Sec. 53A.1. Purpose.

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

22 Sec. 53A.3. Certificate of Eligibility.

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

24 Sec. 53A.5. Approval Process.

25 Sec. 53A.6. Terms of the Contract.

1 Sec. 53A.7. Site Inspection.

2 Sec. 53A.8. Contract Cancellation.

3 Sec. 53A.9. Contract Renewal and Extension.

4 Sec. 53A.10. Outreach and Education.

5 Sec. 53A.11. Sunset Provision.

6 **SEC. 53A.1. PURPOSE.**

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

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

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

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

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

1 **SEC. 53A.3. CERTIFICATE OF ELIGIBILITY.**

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

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

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

10 (3) does not include any dwelling units; and

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

13 (b) Determination of Eligibility: The property owner shall seek a determination from the
14 Planning Department that the property is an eligible urban agriculture incentive zone property. The
15 property owner shall provide, at a minimum, the address and location of the property and evidence that
16 the property is an eligible urban agriculture incentive zone property as described in Subsection
17 53A.3(a). The Planning Department shall make an over-the-counter determination as to whether the
18 property is an eligible urban agriculture incentive zone property. If the property is eligible, the
19 Planning Department shall provide a certificate of eligibility to the property owner. The certificate of
20 eligibility is not a permit to commence any work or a change in use. Permits from appropriate
21 departments must be secured before work is started or use is changed.

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

23 (a) Application for a Contract: After obtaining a certificate of eligibility for the property, the
24 property owner shall submit an application for a Contract, including but not limited to the certificate of
25 eligibility, any required documentation regarding the property described in section 53A.3(b), and a

1 description of the intended agricultural use of the property including current and proposed site plans
2 and a development schedule for the property, to the Agricultural Commissioner on forms provided by
3 the Agricultural Commissioner.

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

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

14 **SEC. 53A.5. APPROVAL PROCESS.**

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

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

21 (2) that the entire property is dedicated to agricultural use. The Agricultural
22 Commissioner shall consider whether certain site features support agricultural use of the site,
23 including but not limited to: educational space; preparation, washing, and harvest areas; storage
24 space; and vehicle access areas. These types of site features shall not preclude approval of a Contract
25

1 as long as the features are accessory to the agricultural use and permitted under the Planning Code on
2 the property proposed for Contract; and

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

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

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

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

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

19 (b) Assessor-Recorder Review. If the Agricultural Commissioner recommends initial approval
20 of the application, he or she shall forward the application to the Assessor-Recorder for review. Within
21 30 days of receipt, the Assessor-Recorder shall provide the Agricultural Commissioner with a report
22 estimating the yearly property tax revenue to the City under both the urban agriculture incentive zones
23 contract valuation method and under the standard valuation method and estimating the difference in
24 property tax assessments under the two valuation methods for the term of the proposed Contract. In
25

1 making this estimate, the Assessor-Recorder shall use the current-year Board of Equalization published
2 tax rate.

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

21 (d) Board of Supervisors Approval. Any proposed Contract not meeting the conditions set forth
22 in subsection (c) above for approval by the Agricultural Commission shall be forwarded by the
23 Agricultural Commissioner to the Clerk of the Board of Supervisors with a recommendation. The Board
24 of Supervisors shall conduct a public hearing to review the Agricultural Commissioner's
25 recommendation, the Assessor-Recorder's report, and any other information the Board requires in

1 order to determine whether the City should execute the proposed Contract. The Board of Supervisors
2 may approve, disapprove, or modify and approve the Contract and shall have full discretion to
3 determine whether it is in the public interest to enter into the proposed Contract.

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

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

13 (a) The Contract shall set forth the agreement between the City and the property owner that as
14 long as the property owner properly conducts permitted agricultural uses on the property as set forth in
15 the Contract, the City shall comply with California Revenue and Taxation Code Article 1.5 of Chapter
16 3 of Part 2 of Division 1, commencing with Section 422.7, provided that the specific provisions of the
17 Revenue and Taxation Code are applicable to the property in question. A Contract shall contain, at a
18 minimum, the following provisions:

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

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

23 (3) Permission to allow periodic examinations of the property under Contract by the
24 Assessor-Recorder, the Department of Building Inspection, the Planning Department, the Agricultural
25

1 Commissioner, and the State Board of Equalization as may be necessary for tax assessment purposes
2 or to determine the property owner's compliance with the Contract and state and local law;

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

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

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

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

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

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

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

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

24 (d) The City and the property owner shall comply with all provisions of the Urban Agriculture
25 Incentive Zones Act, including amendments thereto. The Urban Agriculture Incentive Zones Act, as

1 amended from time to time, shall apply to the Contract process and shall be deemed incorporated into
2 each Contract entered into by the City.

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

8 **SEC. 53A.7. SITE INSPECTION.**

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

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

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

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

19 (2) any specific requirements of the Contract.

20 **SEC. 53A.8. CONTRACT CANCELLATION.**

21 (a) If the Agricultural Commissioner finds that a property owner is in breach of the terms of the
22 Contract, the Agricultural Commissioner shall notify in writing the Assessor-Recorder, the Planning
23 Department, and the property owner of his or her intent to cancel the Contract. The property owner
24 may file a written appeal of this determination with the Clerk of the Board of Supervisors within 30
25

1 days of notification. If the appeal is timely filed, the Clerk of the Board of Supervisors shall calendar
2 the appeal for hearing before the Board of Supervisors within 45 days of its filing.

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

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

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

24 **SEC. 53A.9. CONTRACT RENEWAL AND EXTENSION.**
25

1 (a) Each year, by no later than October 15, the Agricultural Commissioner shall send each
2 property owner with an existing Contract a request for: confirmation that the property owner intends to
3 continue conforming to the Contract; documentation of any major modifications to the original
4 application; and payment for any annual fees for the administration of the Contract.

5 (b) This request shall also include a form for the property owner to apply for an extension of
6 the Contract for an additional term of up to five years, subject to the limitations provided in Section
7 53A.11. Any such extension application shall be subject to the same requirements as an initial
8 application, as set forth above.

9 **SEC. 53A.10. OUTREACH AND EDUCATION.**

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

15 **SEC. 53A.11. SUNSET PROVISION.**

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

21
22 Section 5. Fee Report. Within one year of the effective date of this ordinance, the
23 Agricultural Commissioner, in consultation with the Planning Department, the Assessor-
24 Recorder, and the City Attorney's Office, shall provide a report to the Board of Supervisors
25 recommending the amount of fees to be paid to administer this program. Specifically, the

1 report shall recommend the amount of three potential fees: (1) a proposed fee to pay for the
2 time and materials required for the Planning Department to make an eligibility determination;
3 (2) a proposed fee to pay for the time and materials required to process an application for a
4 Contract, based upon the estimated actual costs to perform the work, including the costs of
5 the City Attorney, the Agricultural Commissioner, and the Assessor-Recorder; and (3) a
6 proposed fee to pay for the actual annual cost of inspecting a property under Contract and
7 determining compliance with the Contract.
8

9 Section 6. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.
13

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

16 By:


17 MARLENA G. BYRNE
18 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code—Urban Agriculture Incentive Zones Act Program and Procedures]

Ordinance amending the Administrative Code to add a new 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.

Existing Law

The City does not currently have a program or procedures implementing the California Urban Agriculture Incentive Zones Act of 2013.

Amendments to Current Law

The proposed legislation would create a new Chapter 53A of the San Francisco Administrative Code, establishing San Francisco's Urban Agriculture Incentive Zone and procedures for implementing the City's program. The purpose of this legislation is to implement the California Urban Agriculture Incentive Zones Act of 2013 (the "Act"). In brief, the Act allows local governments such as San Francisco to enter into a contract with a property owner to provide a likely property tax reduction by assessing the property as agricultural in exchange for the owner agreeing to keep his or her property in active agricultural use for at least five years.

The proposed ordinance establishes a San Francisco Urban Agriculture Incentive Zone ("UAIZ"), which includes the entirety of the City and County of San Francisco. Although the UAIZ encompasses the entire City, agricultural use would only be allowed in areas zoned for such use under the City's Planning Code, either as a permitted use or with approval of a conditional use permit by the Planning Commission.

Under the UAIZ program, a property owner may apply for a UAIZ contract with the City if his or her property meets certain eligibility criteria. Specifically, the property must:

- (1) not already be exempt from property taxes;
- (2) be located within a zoning district where agricultural uses are allowed either principally or conditionally (through a conditional use permit);
- (3) be at least 0.10 acres and not more than three acres in size;
- (4) not have any dwelling units; and
- (5) only include structures that are accessory to the agricultural use, such as, for example, toolsheds, greenhouses, produce stands, or educational space.

Once the Planning Department certifies that the property is eligible to apply for a contract, the owner may then submit an application to the Agricultural Commissioner. The application

deadline for the 2014 calendar year is October 1. After that, there will be three application deadlines a year: March 1; June 1; and August 1.

The Agricultural Commissioner then forwards the application to the Assessor-Recorder for review and an estimate of the tax revenue loss to the City if the contract is approved. The Agricultural Commissioner may approve the contract if it would not result in: tax revenue loss of more than \$25,000 per year or more than \$125,000 over the term of the contract; adjacent parcels totally five acres or more under contract at the same time; or an estimated combined tax revenue loss for all properties under contract of more than \$250,000 per year. If these conditions are not met, then the contract must be approved by the Board of Supervisors. If the application is denied by the Agricultural Commissioner, the owner may appeal the denial to the Board of Supervisors.

To be approved for a contract, the entire property must be either currently in agricultural use or planned for agricultural use and periodically open to members of the public: (1) as educational or outreach space; (2) for food distribution; or (3) as a community garden.

Once the contract and any required use permits are approved, the owner must record the contract against the property. Once the contract is recorded, the Assessor-Recorder will assess the property as agricultural on the next lien date. A contract term must be for a minimum period of five years, during which time the property shall be assessed for tax purposes as agricultural and must be kept in active agricultural use. A contract transfers with any sale of the land and is not linked to any specific property owner.

The Agricultural Commissioner may cancel the contract if the property owner violates the terms of the contract (for example, by not continuing agricultural use). The property owner may appeal the cancellation to the Board of Supervisors. The property owner may also cancel the contract by providing written notice. If the contract is canceled, either by the Agricultural Commissioner or the owner, the property owner must pay the back taxes, including any interest. The payment of this fee may also be appealed to the Board of Supervisors. The Board of Supervisors may waive payment of the cancellation fee if it finds that the cancellation was caused by extenuating circumstances despite the good faith efforts of the landowner to comply with the contract.

The proposed legislation includes an uncodified section that requires the Agricultural Commissioner, in consultation with other affected departments, to provide a report to the Board of Supervisors regarding what level of fees or fees for administering the program would be appropriate for the Board to adopt at a later date. No fee is proposed for adoption at this time.

The legislation also requires the Recreation and Park Department to coordinate efforts with the Agricultural Commissioner to perform community outreach and education regarding the program and application process.

Currently, the state Urban Agriculture Incentive Zones Act does not permit the City to enter into new contracts after January 1, 2019. Unless the state law is amended, the City will not enter into any new contracts after that date.

Background Information

As noted above, the purpose of this legislation is to implement the California Urban Agriculture Incentive Zones Act of 2013. The Act allows local governments such as San Francisco to enter into a contract with a property owner to provide a likely property tax reduction by assessing the property as agricultural in exchange for the owner agreeing to keep his or her property in active agricultural use for at least five years.

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July 15, 2014

San Francisco Board of Supervisors
Land Use and Economic Development Committee
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Establishing an Urban Agriculture Incentive Zone in San Francisco

Dear Members of the Land Use and Economic Development Committee:

Thank you for the opportunity to comment on the proposed ordinance that would create an Urban Agriculture Incentive Zone in San Francisco (File no. 140702). SPUR strongly supports this legislation.

As we highlighted in SPUR's 2012 report, *Public Harvest*, San Francisco benefits in a variety of ways from urban agriculture and access to land is one of the most significant obstacles to its expansion in the city. Land tenure – the ability for gardeners and farmers to stay on their sites – is also an issue that has only become more prominent in the past couple of years. This ordinance, by implementing state Assembly Bill 551 and allowing property owners to receive a property tax reduction in exchange for committing their land to urban agricultural use for at least five years, will help address both those obstacles by providing landowners with an incentive to allow urban agriculture projects on their land for set periods of time.

The proposed ordinance strikes a good balance between encouraging urban agriculture while also providing numerous safeguards to ensure that the property tax reduction is not exploited or provided without considerable oversight. The most recent version of the legislation includes thresholds that trigger automatic hearings at the Board of Supervisors prior to approval if the proposed property would result in: a) more than \$25,000 in annual property tax revenue loss, b) five acres or greater of contiguous property under an urban agriculture incentive zone contract, or c) a total property tax revenue loss of more than \$250,000 with all contracts combined. Furthermore, with the recent amendments, the Board of Supervisors can hold a hearing regarding any contract recommended for approval by the Agricultural Commissioner prior to contract execution, should it decide that is merited. These safeguards, combined with the application and annual inspection process outlined in the legislation, will help ensure that the tax reduction will only go to urban agriculture projects that meet the guidelines of the ordinance.

Recent amendments to the legislation instruct the agencies involved with implementing this ordinance to propose, within a year of the law's passage, fees for the administration of the program within a year. While we support agencies charging fees to cover the expenses of administering the program, we encourage the Board to be careful when reviewing the fees to make sure that the total a property owner is charged does not substantially take away from the tax savings they would expect to receive, which is the heart of the program's incentive.

Given that San Francisco has only a limited number of vacant parcels that meet the eligibility requirements for this program, SPUR expects only a small number of property owners to apply for this program in the coming years. For those projects, this will be a helpful and important program. Looking beyond San Francisco, I can attest to the fact that advocates and policymakers in other cities in California – including Los Angeles, Sacramento, San Jose, and Oakland – have indicated that they are looking to San Francisco to set the example for how to establish an urban agriculture incentive zone. By doing so, we can set the model for other cities and have a broad impact statewide. San Francisco has been a pioneer in promoting urban agriculture through policy and, by passing this legislation, the city will continue its leadership.

We appreciate your consideration of SPUR's comments and encourage you to approve this legislation without delay.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Z.", with a stylized flourish at the end.

Eli Zigas
Food Systems and Urban Agriculture
Program Manager

Member, Board of Supervisors
District 8




City and County of San Francisco

SCOTT WIENER

威善高

DATE: July 17th, 2014

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Scott Wiener 
Chairperson, Land Use and Economic Development Committee

RE: Land Use and Economic Development Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, July 22nd, 2014, as a Committee Report:

140702 Administrative Code – Urban Agriculture Incentive Zones Act Program and Procedures

Ordinance amending the Administrative Code to add a new 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.

This matter will be heard in the Land Use and Economic Development Committee on Monday, July 21st, 2014, at 1:30 p.m.

Ausberry, Andrea

From: Marlena Byrne [Marlena.Byrne@sfgov.org]
Sent: Thursday, July 17, 2014 11:13 AM
To: Ausberry, Andrea
Cc: Power, Andres; Ruwart, Carole (CAT); Givner, Jon (CAT); True, Judson
Subject: Re: File 140702 - Urban Agriculture Incentive Zones

Hello all--

I just wanted to confirm to everyone that my initial advice was correct: The "cancellation fee" referenced in the ordinance is not a "fee" within the meaning of California Government Code Section 66016, requiring additional notice. Section 66016 only applies to local government's creation or increase in fees for service (aka time and materials). There are two reasons this is not a service or time and materials fee:

1. The "cancellation fee" at issue here is a penalty imposed on any property owners who cancels a contract prior to its term ending. It is not for time and materials or a service provided; rather it is the back taxes and interests now owed because the contract has been cancelled; and
2. The "cancellation fee" is required by state law. We are not imposing it.

Let me know if you have any questions about this advice. Thanks--

Marlena

Marlena G. Byrne
Deputy City Attorney
Office of City Attorney Dennis J. Herrera
City and County of San Francisco
tel. 415. 554-4620
fax: 415. 554-4757
marlena.byrne@sfgov.org

From: Marlena Byrne/CTYATT
To: Andres Power/BOS/SFGOV,
Cc: Judson True/BOS/SFGOV, Jon Givner/CTYATT, Andrea Ausberry/BOS/SFGOV, Carole Ruwart/CTYATT
Date: 07/17/2014 09:43 AM
Subject: Re: File 140702 - Urban Agriculture Incentive Zones

I don't think the "fee" referenced in Andrea's email requires notice because this is the cancellation fee required under State law, not a fee that is being created by the City. It's really just the back taxes, not any kind of "fee" for services or time and materials.

Let me look into it a bit further now. I did delete, at the Supervisor's request, all the fee provisions that were about imposing local fee(s).

Sent from my iPhone

Marlena G. Byrne
Deputy City Attorney
Office of City Attorney Dennis J. Herrera
City and County of San Francisco
tel. 415. 554-4620
fax: 415. 554-4757
marlena.byrne@sfgov.org

On Jul 17, 2014, at 9:24 AM, "Power, Andres" <andres.power@sfgov.org> wrote:

I have this item on the draft LU agenda for next Monday. The draft agenda gets finalized today at 11:30.

The clerk's office believes that file 140702 still requires a fee notice. My understanding is that the fee provisions were substituted out this past Tuesday.

Please confirm.

Thanks,
Andres

Andres Power
Office of Supervisor Scott Wiener
(t) 415-554-6968

Caldeira, Rick (BOS)

From: Campbell, Severin (BUD)
Sent: Thursday, July 10, 2014 2:27 PM
To: Caldeira, Rick (BOS); Wong, Linda (BOS)
Cc: Calvillo, Angela (BOS); Rauschuber, Catherine (BOS); Short, Katherine (BUD)
Subject: File 14-0702 - Urban Agriculture Incentive Zones Act Program and Procedures

We initially determined that this legislation had fiscal impact based on initial information provided by the Assessor's Office. Based on proposed revisions to the legislation and further discussion with the Assessor's Office, we have now determined that this legislation does not have fiscal impact.

Thank you.

Severin Campbell
Budget & Legislative Analyst's Office
(415) 553-4647

Administrative Code – Urban Agriculture Incentive Zones Act Program and Procedures

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 creating procedures for implementing the program; and making environmental findings

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [140702]
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

David Chiu, Malia Cohen

Subject:

Administrative Code -- Urban Agriculture Incentive Zones Act Program and Procedures

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor:

David Chiu

For Clerk's Use Only:

