

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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