

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  
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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  
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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



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 recording 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  
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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.**

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.

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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.

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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.

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

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16 By: \_\_\_\_\_  
17 MARLENA G. BYRNE  
18 Deputy City Attorney

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