MEMORANDUM

LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Scott Wiener, Chair
    Land Use and Economic Development Committee

FROM: Andrea Ausberry, Assistant Clerk

DATE: July 21, 2014

SUBJECT: COMMITTEE REPORT, BOARD MEETING
          Tuesday, July 22, 2014

The following file should be presented as a COMMITTEE REPORT at the Board meeting, Tuesday, July 22, 2014. This item was acted upon at the Committee Meeting on July 21, 2014, at 1:30 p.m., by the votes indicated.

**Item No. 63  File No. 140702**

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.

AMENDED. AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
Vote:  Supervisor Scott Wiener - Aye
      Supervisor Jane Kim - Aye
      Supervisor Malia Cohen - Aye

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT
Vote:  Supervisor Scott Wiener - Aye
      Supervisor Jane Kim - Aye
      Supervisor Malia Cohen - Aye

  c:  Board of Supervisors
      Angela Calvillo, Clerk of the Board
      Rick Caldeira, Deputy Legislative Clerk
      Jon Givner, Deputy City Attorney
COMMITTEE/BOARD OF SUPERVISORS
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Completed by:  Andrea Aurberry  Date  July 17, 2014
Completed by:  [Signature]  Date  7.21.14
Amended in Committee
7/21/14

File No. 140702

[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 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 property 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

Supervisors Chiu and Cohen
BOARD OF SUPERVISORS
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 Department of Public Health, 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.7. 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

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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

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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 cancelation 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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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.
July 15, 2014

File No. 140702

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4th Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On June 17, 2014, Supervisor Chiu introduced the following legislation:

   File No. 140702

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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Andrea Ausberry, Assistant Clerk  
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

"Not defined as a project under CEQA guidelines Section 15378 and 15060(e)(2) because it does not result in a physical change in the environment." 

Jessica Range 7/10/14  
Jessica Range
July 16, 2014

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

Dear Members of the Land Use and Economic Development Committee:

On behalf of the San Francisco Urban Agriculture Alliance and our member organizations, we are writing to express our support for the creation of an Urban Agriculture Incentive Zone in the city. The legislation introduced by Supervisor David Chiu and co-sponsored by Supervisor Cohen (File No. 140702) would give a boost to urban agriculture in the city by helping to address two of the largest obstacles currently faced by farmers and gardeners – access to land and secure land tenure.

We support the recent amendments that provide for additional oversight by the Board of Supervisors and add an overall threshold of revenue loss for the city. We are strong proponents of expanding the growing of food in the city, but also recognize the importance of ensuring that anyone who is receiving the tax break from a contract under this program is doing so in a transparent and enforceable manner subject to reasonable oversight.

Lastly, we are excited that San Francisco is considering taking this pivotal step, as we know that other cities across the state are looking to San Francisco to establish the model of this program. It’s also important to note that the idea for the state legislation that created this program, Assembly Bill 551, was born in San Francisco and shepherded through the state legislature by Assemblymen Phil Ting. Let’s continue to be a city of leaders that support innovate urban agriculture policy by creating an urban agriculture incentive zone within the city.

We urge you to support this legislation.

Sincerely,

Jessie Raeder
Co-coordinator
jessie@sfuua.org

Stephanie Goodson
Co-coordinator
stephanie@sfuua.org

CC: Supervisor David Chiu

San Francisco Urban Agriculture Alliance
www.sfuua.org
Dear Supervisor David Chiu,

On behalf of the San Francisco Urban Agriculture Alliance and our member organizations, we are writing to express our support for the creation of an Urban Agriculture Incentive Zone in the city. The legislation introduced by Supervisor David Chiu and co-sponsored by Supervisor Cohen (File No. 140702) would give a boost to urban agriculture in the city by helping to address two of the largest obstacles currently faced by farmers and gardeners – access to land and secure land tenure.

We support the recent amendments that provide for additional oversight by the Board of Supervisors and add an overall threshold of revenue loss for the city. We are strong proponents of expanding the growing of food in the city, but also recognize the importance of ensuring that anyone who is receiving the tax break from a contract under this program is doing so in a transparent and enforceable manner subject to reasonable oversight.

Lastly, we are excited that San Francisco is considering taking this pivotal step, as we know that other cities across the state are looking to San Francisco to establish the model of this program. It’s also important to note that the idea for the state legislation that created this program, Assembly Bill 551, was born in San Francisco and shepherded through the state legislature by Assemblymen Phil Ting. Let’s continue to be a city of leaders that support innovative urban agriculture policy by creating an urban agriculture incentive zone within the city.

Thank you for your consideration and your support. We truly are excited about encouraging more urban ag within San Francisco!

Best,
Stephanie Goodson + Jessie Raeder
SFUAA Co-Coordinators
www.sfuua.org
415.297.5739
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,

Eli Zigas
Food Systems and Urban Agriculture
Program Manager
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
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Office of City Attorney Dennis J. Herrera
City and County of San Francisco
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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).
On Jul 17, 2014, at 9:24 AM, "Power, Andrés" <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
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

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. 40702
☐ 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:  

For Clerk's Use Only: