



County of Santa Clara
Department of Planning and Development

77963

DATE: September 29, 2015

TO: Board of Supervisors

FROM: Kirk Girard, Director, Dept. of Planning and Development

SUBJECT: Urban Agriculture Program: AB 551 Implementation

RECOMMENDED ACTION

Public hearing to consider program to implement Assembly Bill (AB) 551, the Urban Agriculture Incentive Zones Act.

- i. Open public hearing and receive testimony.
- ii. Close public hearing.

FISCAL IMPLICATIONS

Impacts to the general fund are anticipated to be minimal. Enrollment and reappraisal of up to 37 eligible parcels could cumulatively reduce property tax revenue by as much as \$91,200, resulting in an annual reduction to the general fund of up to \$13,500. These figures are based on current assessment valuations provided by the County Assessor's Office, a 1% property tax rate, and revenue stream information provided by the Finance Agency. These figures are also contingent on eligible cities authorizing the County's urban agricultural incentive zones for the unincorporated areas within their urban service areas.

Other agencies whose funding may be affected by reduced tax revenue include K-12 school districts, community college districts, libraries and special districts (see Attachment 4).

Properties that enter into contracts that result in a reduced tax valuation must be vacant and can only be used for agriculture with no residences. Thus, the school and public services expenditure associated with these vacant parcels would be significantly lower than for developed parcels.

CONTRACT HISTORY

Not applicable.

REASONS FOR RECOMMENDATION

- In February 2015, the Board of Supervisors directed the Department of Planning and Development to develop a program to implement Assembly Bill 551: the Urban Agriculture Incentive Zones (UAIZ) Act. The Department subsequently worked with various internal and external stakeholders to develop a draft program ordinance, which was presented to the Finance and Government Operations Committee in August 2015.
- In August 2015, the Finance and Government Operations Committee (FGOC) reviewed the draft ordinance and provided the following specific direction regarding preparation of the final ordinance (Ordinance NS-1203.123; linked file 78229):
 - a. ***Delegate Contract Approval Authority to Administration:*** The preliminary draft ordinance was based on the established Williamson Act contract procedure and had the Board of Supervisors as the approving authority for UAIZ contracts. Responding to stakeholders' wishes for a lean, cost-effective process, FGOC recommended that approval authority be delegated to Administration.

The ordinance (NS-1203.123) designates the Agricultural Commissioner as the approval authority for UAIZ contracts.
 - b. ***Report Back:*** FGOC requested that the program include semi-annual reports to FGOC on the program's implementation. FGOC requested a separate report be provided to the Board of Supervisors after three years to address the public benefit aspects of the program, and any program-associated impacts to tax revenue.
 - c. ***Encourage Public Benefit:*** Responding to stakeholders requests that the *public benefit* language in the San Francisco ordinance be considered, FGOC requested that the program be developed such that public benefits (e.g. public access, education programs, donation of food to charities, on-site sales) be encouraged but not mandated.
- As discussed in the *Background* section of this report, the zoning ordinance does not presently accommodate agriculture in urban districts, so needed revisions have been developed. In July 2015, the Planning Commission reviewed the proposed zoning revisions, and provided a favorable recommendation to the Board of Supervisors regarding Ordinance NS-1200.352 (linked file 78240).
- The resolution establishing urban agriculture incentive zones (linked file 78242) covers all eligible urban unincorporated areas. Such incentive zones will not, however, become effective until the city within whose sphere of influence the zone lies takes a corresponding legislative action to authorize the incentive zone.
- The fee resolution (linked file 78255) was written to accurately reflect the fees for implementing and administering the UAIZ program for an individual contract. AB 511 (California Government Code Section 51042(a)(2)(A)) authorizes the County to impose a fee upon contracting landowners for the reasonable costs of implementing and administering contracts.

CHILD IMPACT

The UAIZ program could be beneficial to certain children /youth, as it would afford access to fresh, healthy, locally sourced food, and active participation in urban agricultural programs.

Program-related reductions to the revenue stream could impact public schools, and certain publicly funded childhood programs. However, the low number of eligible parcels in the unincorporated urban areas should not result in consequential impacts.

In 2013, the Senate Appropriations Committee analyzed the statewide general fund impact of AB 551 prior to its adoption, and determined that statewide revenue impacts related to AB 551 reappraisals would likely not exceed \$1 million annually, with approximately half of the reduced revenue accruing to schools.

SENIOR IMPACT

The UAIZ program could be beneficial to certain seniors, as it would afford access to fresh, healthy, locally sourced food, and active participation in urban agricultural programs.

SUSTAINABILITY IMPLICATIONS

The UAIZ program would afford sustainability benefits to those growing and consuming food. Adjacent land and community would benefit from vibrant green spaces, ecological enhancements, and education and awareness regarding fresh food and cultivation. By ensuring that less of our food is transported long distances from source to table, regional food security would be increased and greenhouse gas emissions would be reduced.

BACKGROUND

Assembly Bill 551

Assembly Bill 551, the Urban Agriculture Incentive Zones (UAIZ) Act, promotes small-scale commercial or noncommercial agricultural use on vacant, unimproved or blighted lands in urban areas. Adopted in 2013, AB 551 allows cities and counties to create UAIZs, offering preferential property tax assessment to owners of eligible urban lots who agree to enter into a contract restricting the property use to small-scale production of agricultural crops and animal husbandry for a period of five years. AB 551 authorizes the County to enter into a contract until January 1, 2019.

Sustainable Local Agriculture

In adopting AB 551, the Legislature found that “it is in the public interest to promote sustainable urban farm enterprise sectors in urban centers.” (Cal. Govt. Code § 51040.1.) The Legislature further found that “small-scale, active production of marketable crops and animal husbandry, including, but not limited to, foods, flowers and seedlings, in urban centers is consistent with, and furthers the purposes of [AB 551].”

Community groups are already promoting urban agriculture through activities such as (a) nonprofit community gardens, (b) nutrition and gardening training, (c) harvesting fruit from neighborhood trees and donating to needy individuals, and (d) subscription services providing boxed produce from local/ community agriculture. These efforts are intended to enhance the local communities and neighborhoods by providing access to affordable food that is fresh, healthy and local.

Enforceable Contract

AB 551 authorizes cities and counties to enter into a contract with a qualifying property owner for an initial term of not less than five years. The owner pledges to limit the use of the land to commercial or noncommercial agricultural use, in exchange for favorable property tax benefits. As with similar programs such as Williamson Act, the land would be assessed at a lower rate, in this case based on the average per-acre land value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture.

This provides tangible financial incentive for a landowner who may not be interested in immediately developing vacant land. In local cities, where the pressure for conversion of underutilized vacant land can be high, the minimum five-year contract term provides a safety net against sudden displacement; providing assurance for an organization that must invest significant time, energy and resources into converting a vacant urban lot into a productive small-scale farm.

The template for the UAIZ contract is included as Attachment 6.

Eligible Unincorporated Lands

To be eligible to participate in the program, each of the following criteria must be met:

- The parcel must be at least 0.10 acres (4,356 sq. ft.), and not be larger than three (3) acres (130,680 sq. ft.).
- The parcel must be located in an urban agriculture incentive zone, which may only be established within an urbanized area, as defined by the US Census, with populations of 250,000 or more.
- There may not be any dwellings on the parcel while under contract.
- The entire parcel must be utilized for UAIZ program-compatible commercial or noncommercial agricultural use. Structures on the lot shall be limited to those that are directly related to the agricultural activity, including, but not limited to toolsheds, greenhouses, produce stands, fences, and educational facilities/ structures.
- The parcel must be located in a zoning district where agriculture is an allowed use.

Preliminary research has determined that up to 37 lots in urban unincorporated areas would be eligible for the program, assuming the necessary zoning ordinance revisions were undertaken. Most are zoned One-Family Residence (R1) or One-Family Residence–Estate

(R1E), and most are located within the City of San José's urban service area. Others are located within the urban service areas of Los Gatos, Monte Sereno, Los Altos and Palo Alto. The actual UAIZs (zones) will be adopted by a separate resolution describing their geographical scope and boundaries. Per AB 551, UAIZs cannot be established on unincorporated county lands without the consent of legislative bodies of cities whose spheres of influence underlie the unincorporated UAIZ.

Departmental Roles

The process of receiving, reviewing and managing contracts will be as follows.

- The Division of Agriculture would accept the contract application and filing fee. Agriculture would promptly refer the application materials to the Planning Office for preliminary zoning eligibility review, and to the Assessor's Office for preliminary reappraisal.
- The Division of Agriculture would evaluate the application and determine whether the proposed operation would satisfy eligibility requirements, and meet the intent of the Act (AB 551).
- The Division of Agriculture would prepare a report documenting the basis for contract approval or denial.
- The Division of Agriculture would execute approved contracts, and forward documents to the Office of the Clerk-Recorder for recordation.
- The Division of Agriculture would field-inspect the newly established agricultural operation, and conduct annual follow-up inspections. Representatives would ensure that applicable pesticide and fertilizer requirements are being followed.
- The Clerk of the Board of Supervisors would work with the Division of Agriculture to process appeals of contract approval or denial, which would be adjudicated by the Board of Supervisors.

Zoning Accommodation

While the zoning ordinance currently provides for a variety of agricultural activities in rural areas, within urban (unincorporated) areas it only acknowledges gardens as an ancillary residential use. It would not allow, for instance, a community garden on an otherwise vacant urban lot. Additionally, certain restrictions on accessory structures and fences applicable to residential districts may, as currently written, discourage urban agricultural activities.

Ordinance NS-1200.352 (linked File 78240) would add a new *Agriculture: Urban* sub-classification to the *Agriculture* use classification. Accommodation would be provided for structures supporting urban agricultural operations, and for product sales. Allowed activities would be scaled to be compatible with adjacent properties and residential neighborhoods. Livestock would be limited to small animals as currently allowed in residential districts. Composting and refuse disposal containers would need to be separated from adjacent properties.

Project History and Schedule

County work on the UAIZ program has been underway since 2014, with the majority of the effort coming from the offices of Supervisors Yeager and Wasserman. Following a February 10, 2015, Board referral, the Planning Office has been communicating with representatives of Board offices, representatives of other County departments, advocacy and non-profit organizations, and other external stakeholders.

At its June 9, 2015 meeting, the Board adopted a resolution authorizing eligible cities within Santa Clara County to establish urban agriculture incentive zones within their boundaries (an AB 551 requirement). The Board also received a report notifying the Board of the Department of Planning and Development's development of (1) the program ordinance and (2) revisions to the Zoning Ordinance to accommodate agriculture in urban areas.

On July 23, 2015, the Planning Commission considered amendments to the Zoning Ordinance to accommodate agriculture in urban areas, consistent with AB 551. The ordinance was prepared after reviewing ordinances of other jurisdictions, and receiving input from advocates and other stakeholders. The Planning Commission forwarded a favorable recommendation to the Board to adopt the zoning ordinance amendments.

On August 13, 2015, the Finance and Government Operations Committee (FGOC) accepted a report which included a preliminary draft program ordinance and supporting documents. As indicated previously, FGOC accepted the report, with specific direction regarding approval authority, public benefit, and periodic reporting back to the Board of Supervisors.

Planning staff has been regularly engaging internal and external stakeholders during the development of this program.

If approved by the Board of Supervisors, the program would become effective on November 28, 2015.

CONSEQUENCES OF NEGATIVE ACTION

Should the Board of Supervisors not adopt the UAIZ program, no new accommodation or encouragement of urban agriculture will go into effect.

STEPS FOLLOWING APPROVAL

The Clerk of the Board of Supervisors will notify Kirk Girard and Mary Haywood of the Department of Planning and Development.

LINKS:

- References: 75053 : 75053
- Originated From: 78229 : Adopt Ordinance No. NS-1203.123 adding a new Division 21 to Title C of the Ordinance Code of the County of Santa Clara relating to urban agriculture incentive zones. (Roll Call Vote)
- Originated From: 78240 : Adopt Ordinance No. NS-1200.352 amending Appendix I, Zoning, of the County of Santa Clara Ordinance Code to accommodate small-scale urban agriculture. (Roll Call Vote)

- Originated From: 78242 : Adopt Resolution establishing urban agriculture incentive zones within certain unincorporated areas of Santa Clara County consistent with the Urban Agriculture Incentive Zones Act, AB 551, and Ordinance NS-1203.123. (Roll Call Vote)
- Linked From: 78255 : Adopt Resolution establishing fees for services provided by the County of Santa Clara related to the urban agriculture incentive zones ordinance and program. (Roll Call Vote)

ATTACHMENTS:

- AB 551 Text (PDF)
- Guide to Implementing AB 551 (University of California) (PDF)
- Potentially Eligible Parcels (PDF)
- Fiscal Impacts to Local Districts and Agencies (PDF)
- Contract Application Process Flowchart (PDF)
- UAIZ Contract Template (PDF)
- UAIZ Contract Application Form (PDF)

Assembly Bill No. 551

Passed the Assembly September 10, 2013

Chief Clerk of the Assembly

Passed the Senate September 9, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

Attachment: AB 551 Text (77963 : Urban Agriculture Program: AB 551 Implementation)

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

This bill would require the county assessor to value property that is enforceably restricted by a contract entered into pursuant to the Urban Agriculture Incentive Zones Act at the rate based on the average per-acre value of irrigated cropland in California, adjusted proportionally to reflect the acreage of the property under

contract, as most recently published by the National Agricultural Statistics Service of the United States Department of Agriculture. The bill would also require the State Board of Equalization to post the per-acre land value as published by the National Agricultural Statistics Service of the United States Department of Agriculture on its Internet Web site within 30 days of publication, and to provide the rate to county assessors no later than January 1 of each assessment year.

The people of the State of California do enact as follows:

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

CHAPTER 6.3. URBAN AGRICULTURE INCENTIVE ZONES

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

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

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

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

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

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

(c) "Agricultural use" means farming in all its branches including, but not limited to, the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, and poultry,

agricultural education, the sale of produce through field retail stands or farms stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agricultural Code, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations. For purposes of this chapter, the term “agricultural use” does not include timber production.

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

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

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

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

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

(b) Following the adoption of the ordinance as required by subdivision (a), a city, county, or a city and county may enter into a contract with a landowner to enforceably restrict the use of the land subject to the contract to uses consistent with urban

agriculture. Any contract entered into pursuant to this chapter shall include, but is not limited to, all of the following provisions:

- (1) An initial term of not less than five years.
- (2) A restriction on property that is at least 0.10 acres, and not more than three acres.
- (3) A requirement that the entire property subject to the contract shall be dedicated toward commercial or noncommercial agricultural use.
- (4) A prohibition against any dwellings on the property while under contract.
- (5) A notification that if a landowner cancels a contract, a city, county, or city and county is required to assess a cancellation fee, pursuant to subparagraph (B) of paragraph (2) of subdivision (a).
- (c) A contract entered into pursuant to this chapter shall not prohibit the use of structures that support agricultural activity, including, but not limited to, toolsheds, greenhouses, produce stands, and instructional space.
- (d) A contract entered into pursuant to this chapter that includes a prohibition on the use of pesticide or fertilizers on properties under contract shall permit those pesticides or fertilizers allowed by the United States Department of Agriculture's National Organic Program.
- (e) A city, county, or city and county shall not enter into a new contract, or renew an existing contract pursuant to this chapter after January 1, 2019. Any contract entered into pursuant to this chapter on or before January 1, 2019, shall be valid and enforceable for the duration of the contract.
- (f) Property subject to a contract entered into pursuant to this chapter shall be assessed pursuant to Section 422.7 of the Revenue and Taxation Code during the term of the contract.
- (g) A county or a city and county shall not establish an Urban Agriculture Incentive Zone within any portion of the spheres of influence of a city unless the legislative body of the city has consented to the establishment of the Urban Agriculture Incentive Zone.
- (h) A city, county, or city and county shall not establish an Urban Agriculture Incentive Zone in any area that is currently subject to, or has been subject to within the previous three years, a contract pursuant to the Williamson Act (Article 1 (commencing

with Section 51200) of Chapter 7 of Part 1 of Division 1 of Title 5).

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

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

- (1) Zoning.
- (2) Recorded contracts with governmental agencies other than those provided in Sections 422, 422.5, and 422.7.
- (3) Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.
- (4) Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.
- (5) Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.
- (6) Environmental constraints applied to the use of land pursuant to provisions of statutes.
- (7) Hazardous waste land use restriction pursuant to Section 25240 of the Health and Safety Code.
- (8) A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.
- (9) A solar-use easement pursuant to Chapter 6.9 (commencing with Section 51190) of Part 1 of Division 1 of Title 5 of the Government Code.

(b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and

that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

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

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

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

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

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

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

(g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers

uses for land that legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. This statute shall not be construed as requiring the assessment of any land at a value less than as required by Section 401 or as prohibiting the use of representative comparable sales information on land under similar restrictions when this information is available.

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

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

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

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

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

Approved _____, 2013

Governor

Guide to Implementing the Urban Agricultural Incentive Zones Act
New California law makes it easier for cities and counties to foster urban agriculture
 Author: Eli Zigas, Food Systems and Urban Agriculture Program Manager, SPUR

The Benefits of Urban Agriculture to a City and County

Urban agriculture provides numerous benefits not only to those growing food, but also to the cities and counties in which it happens. City gardening and farming offers public benefits such as vibrant green spaces and recreation, education about fresh food and the effort it takes to produce it, ecological benefits for the city, sites that help build community, and a potential source of modest economic development.¹

New Law: AB 551 (Ting) – Urban Agriculture Incentive Zones Act

AB551² aims to increase the use of privately owned, vacant land for urban agriculture and improve land security for urban agriculture projects.

1. The legislation does this by allowing city governments, with approval from their county board of supervisors, to designate areas within their boundaries as “urban agriculture incentive zones” (UAIZ).
2. For landowners in a UAIZ, leasing land for urban agriculture for a minimum of five years can potentially help them lower their property tax assessment, creating an incentive to lease land to individuals and groups who will use it for farming or gardening.

Urban Agriculture Incentive Zone Definition

The state legislation defines agricultural use for purposes of an Urban Agriculture Incentive Zone as:

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

Where Urban Agriculture Incentive Zones are Permitted

The state legislation permits urban agriculture incentive zones to only be established in “urban areas,” as defined by the US Census, with populations of 250,000 or more.³ This definition encompasses most of the major cities of California as well as their adjacent suburbs. See Appendix A for the list of qualifying urban areas based on the 2010 census and links to the maps delineating their boundaries. Cities and counties are not allowed to create urban agriculture incentive zones in areas that fall outside of the boundaries of these “urban areas”.

¹ For an examination of the benefits with the City of San Francisco as a case study, see: SPUR, *Public Harvest*, April 2012, 5-8, <http://www.spur.org/publications/library/report/public-harvest>.

² The full text of the law is available at: http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB551.

³ More information about the US Census definition of urban areas is available at: www.census.gov/geo/reference/ua/urban-rural-2010.html.

Additionally, cities and counties may not establish a UAIZ in any area that has been covered by a Williamson Act contract within the preceding three years.⁴

Parcel Eligibility

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

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

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

How to Create an Urban Agriculture Incentive Zone

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

Within city boundaries:

Inside incorporated areas of California, a UAIZ is created by a two-step process, requiring action by both the city and county governments (San Francisco, which is the only combined city and county in California, is the one exception to this rule). Either the city council or the county Board of Supervisors can begin the process. If started by a city council, the process requires an ordinance passed by the city council and a resolution signifying the Board of Supervisors' approval. If started by the Board of Supervisors, the process requires an ordinance from the Board of Supervisors and a resolution signifying the relevant city council's approval.

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

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

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

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

⁴ Williamson Act contracts provide a tax incentive to preserve agricultural land. More information at: <http://conservation.ca.gov/dlrp/LCA/Pages/Index.aspx>. For a list of areas covered by the Williamson Act, contact your county assessor's office.

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

Change in Property Tax Assessment

Each year the assessment basis for land under an Urban Agriculture Incentive Zone (UAIZ) contract will be based on the annual average per acre value of irrigated cropland in California as reported by the [US Department of Agriculture's National Agricultural Statistics Service](#). This information will be posted annually on the Board of Equalization's website and communicated to Assessors by January 1.

In 2014, this is \$12,500 per acre⁵. The assessment will be adjusted proportionally to reflect the acreage under contract. The difference between a parcel's current property tax assessment and that under a contract will differ parcel-by-parcel.

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

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

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

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

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

Penalty for Contract Cancellation

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

Sunset Clause

Unless the law is amended by the state legislature, no UAIZ contracts can be signed after January 1, 2019.

⁵ California State Board of Equalization, <http://www.boe.ca.gov/proptaxes/uaincentivezone.htm>.

Appendix A: US Census Urban Areas in California with More than 250,000 People

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

US Census Urban Area Name	Population (2010)
Los Angeles--Long Beach--Anaheim, CA	12,150,996
San Francisco--Oakland, CA	3,281,212
San Diego, CA	2,956,746
Riverside--San Bernardino, CA	1,932,666
Sacramento, CA	1,723,634
San Jose, CA	1,664,496
Fresno, CA	654,628
Concord, CA	615,968
Mission Viejo--Lake Forest--San Clemente, CA	583,681
Bakersfield, CA	523,994
Murrieta--Temecula--Menifee, CA	441,546
Stockton, CA	370,583
Oxnard, CA	367,260
Modesto, CA	358,172
Indio--Cathedral City, CA	345,580
Lancaster--Palmdale, CA	341,219
Victorville--Hesperia, CA	328,454
Santa Rosa, CA	308,231
Antioch, CA	277,634
Santa Clarita, CA	258,653

Source: US Census, Spreadsheet/Table, “A National, State-Sorted List of All 2010 Urbanized Areas and Urban Clusters for The U.S., Puerto Rico, and Island Areas First Sorted by State FIPS Code, Then Sorted By UACE Code,” accessible at: <http://www.census.gov/geo/reference/ua/urban-rural-2010.html>

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

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

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

Potentially Eligible Parcels

Currently Vacant Parcels in Urban Unincorporated Areas

San Jose	26
Los Altos	6
Los Gatos	2
Los Altos Hills	1
Monte Sereno	1
Palo Alto	1

Attachment: Potentially Eligible Parcels (77963 : Urban Agriculture Program: AB 551 Implementation)

Controller-Treasurer's Office
 AB551 Fiscal Impact Analysis, at Tax Rate Area level - August 2015

Jurisdiction Long Name	Estimated 1% Property Tax Reduction
Santa Clara County	13,466
Santa Clara County Library	2,453
Alum Rock Union Elementary	9,803
Luther Burbank Elementary	365
Campbell Union Elementary	91
Los Altos Elementary	6,354
Los Gatos Union Elementary	146
Palo Alto Unified	(38)
Saratoga Union Elementary	3,497
Union Elementary	2,528
Campbell Union High	1,660
East Side Union High	4,974
Los Gatos-Saratoga High	2,912
Mountain View-Los Altos Union High	5,323
Foothill-DeAnza Community College	2,377
West Valley-Mission Community College	2,012
San Jose-Evergreen Community College	2,385
County School Service	3,212
Central Fire Protection District	2,215
Central Fire Protection Zone No. 1	6,693
Los Altos Hills County Fire District	3,843
Midpeninsula Regional Open Space District	808
Santa Clara Valley Water District Central Zone	111
Santa Clara Valley Water District East Zone 1	583
Santa Clara Valley Water District North Central Zone	127
Santa Clara Valley Water District North West Zone 1	436
Santa Clara Valley Water District	157
Saratoga Cemetery District	84
El Camino Hospital	661
Bay Area Air Quality Management District	177
Guadalupe Coyote Resource Conservation District	0
Santa Clara County Importation Water-Misc District	468
Santa Clara Valley Water District West Zone 4	120
*ERAF	11,228
Grand Total	91,231

Summary	Estimated 1% Property Tax Reduction
County	\$ 13,500
K-12 School Districts	50,400
Community Colleges	8,400
Special Districts	18,900
	<u>\$ 91,200</u>

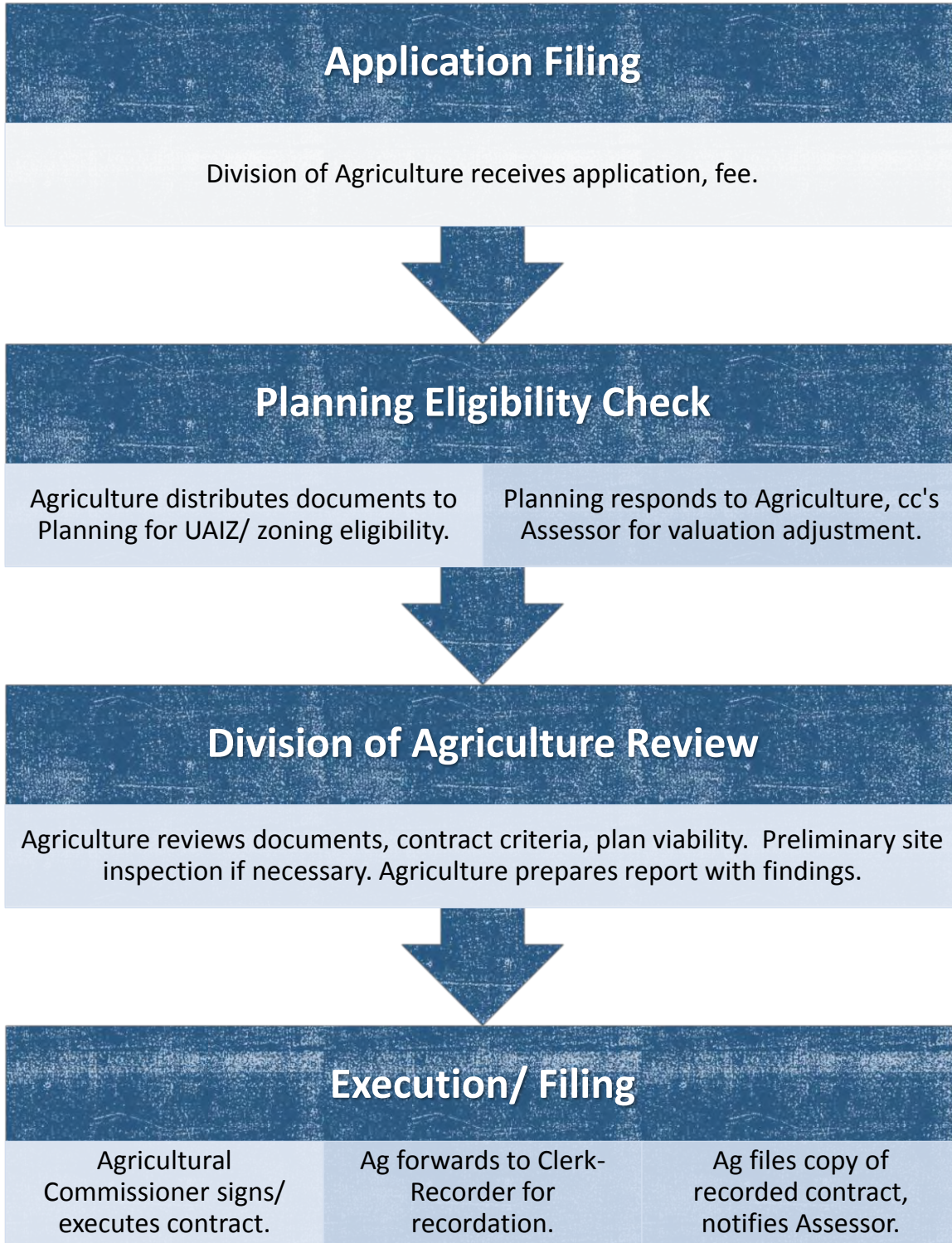
*ERAF distribution between K-12 and College:

0.857239 ERAF K-12	9,600
0.142761 ERAF College	1,600

Note:

Estimation is based on the provided estimated value reductions and affected Tax Rate Area (TRA) by Assessor's Office.

UAIZ Contract Processing--DRAFT



Attachment: Contract Application Process Flowchart (77963 : Urban Agriculture Program: AB 551 Implementation)

Application denial appealable to Board of Supervisors.

<p>RECORDING REQUESTED BY:</p> <p>WHEN RECORDED SEND TO:</p> <p>Clerk of the Board of Supervisors 70 West Hedding Street, 10th Floor, E. Wing San Jose, CA 95110</p>	
--	--

URBAN AGRICULTURE INCENTIVE ZONES ACT CONTRACT

This is a Urban Agriculture Incentives Zones Act Contract (the “Contract”) between the County of Santa Clara, State of California (the “County”), and [PLEASE PRINT OR TYPE NAMES OF ALL PROPERTY OWNERS IN THE SAME MANNER IN WHICH OWNERSHIP TO THE PROPERTY IS VESTED]

(collectively, the “Owner”).

RECITALS

WHEREAS, Owner is the legal owner of certain real property located in the unincorporated area of Santa Clara County in the State of California described in Exhibit A, which is attached hereto and incorporated herein, (the “Property”); and

WHEREAS, the County Board of Supervisors has determined that the Property is eligible under the California Urban Agriculture Incentives Zones Act for an urban agriculture incentive zones contract and Owner desires to implement a small-scale urban agricultural use for the Property; and

WHEREAS, the State of California has adopted the Urban Agriculture Incentive Zones Act (California Government Code Sections 51040, et seq., and California Revenue & Taxation Code, Article 1.5, Section 422.7 et seq.) authorizing local governments to enter into contracts with property owners to reduce their property taxes, or to prevent increases in their property taxes, in return for a commitment to a sustainable urban farm in an urban area. The County has adopted enabling legislation, Santa Clara County Code Division C21, authorizing it to participate in the Urban Agriculture Incentive Zones Act program; and

WHEREAS, Owner desires to enter into an Urban Agriculture Incentive Zones Act Contract with the County to help mitigate expenditures for the use of the Property for small-scale urban agricultural use. The County is willing to enter into such Contract to promote the use of vacant, undeveloped land for sustainable urban agricultural use and to provide public benefits to the County such as connecting residents to the broader food system, providing green space and recreational opportunities, building community, and promoting food access, public health, and economic development potential.

Attachment: UAIZ Contract Template (77963 : Urban Agriculture Program: AB 551 Implementation)

WHEREAS, both Owner and County desire to limit the use of the Property to urban agricultural use consistent with the Urban Agriculture Incentive Zones Act; and

NOW, THEREFORE, in consideration of the mutual obligations, covenants, and conditions contained herein, the parties hereto do agree as follows:

1. CONTRACT SUBJECT TO CALIFORNIA URBAN AGRICULTURE INCENTIVE ZONES ACT AND RELATED COUNTY ORDINANCES AND GUIDELINES

This Contract is entered into pursuant to the Urban Agriculture Incentive Zones Act (California Government Code Sections 51040, et seq., and California Revenue & Taxation Code, Article 1.5, Section 422.7 et seq.) (the “Act”) and is subject to all of the provisions of the Act, including any amendments to the Act that may be enacted in the future. This Contract is also subject to County ordinances implementing the Act, Santa Clara County Code Division C21 (“Ordinance”), including any amendments to the Ordinance that may be enacted in the future. This Contract is also subject to any guidelines adopted by the County Board of Supervisors pertaining to Contracts entered into pursuant to the Act (“Guidelines”), including any amendments to the Guidelines that may be adopted in the future.

2. RESTRICTIONS ON USE OF PROPERTY

During the term of this Contract, the Property may only be used for commercial or noncommercial agricultural use and shall undertake and complete the work set forth in Exhibit B (“Agricultural Use Plan”) attached hereto and incorporated herein. The Agricultural Use Plan sets forth the permitted agricultural use of the Property and includes the proposed site plan and development schedule for the Property. Owner shall proceed diligently in commencing agricultural use as set forth in Agricultural Use Plan and shall commence such use not less than thirty (30) days after recordation of this Contract if not already using the Property for agricultural use. Owner shall permit members of the public to periodically access the site as set forth in the Agricultural Use Plan. No dwelling units shall be permitted on the Property. Failure to timely commence agricultural use, failure to permit public access according to the Agricultural Use Plan, or the presence or construction of any dwelling unit(s) on the Property shall result in cancellation of this Contract as set forth in Section 12 herein.

3. CESSATION OF AGRICULTURAL USE

Owner shall report in writing to the Agricultural Commissioner any cessation of agricultural use for any reason or any other change in use from that approved under the attached Agricultural Use Plan within two (2) weeks of the cessation or change of activity. Owner shall resume agricultural activity consistent with the Agricultural Use Plan within three (3) months of any such cessation. Failure to timely resume agricultural use shall result in cancellation of this Contract as set forth in Section 12 herein.

4. INSURANCE

Owner shall secure adequate liability insurance to cover the uses proposed in the attached Agricultural Use Plan, including coverage for any third parties on the Property, and shall submit evidence of such insurance to the County upon request.

5. INSPECTIONS

Owner shall permit periodic examination of the Property by representatives of the County, upon forty-eight (48) hours advance written notice by the Agricultural Commissioner, to monitor Owner’s compliance with the terms of this Contract. Owner shall provide all reasonable information and documentation about the Property demonstrating compliance with this Contract as requested by the County.

6. TERM OF CONTRACT

This Contract is effective on the date of execution by the County and remains in full force and effect for an initial term of at least five years, which five year term commences on the first day of January following execution of the Contract.

7. VALUATION

This Contract must have been executed and recorded on or before the lien date (December 31) for a fiscal year for the Property to be valued under the taxation provisions of the Act for that fiscal year.

8. RENEWAL AND EXTENSION

Owner may apply for an extension of the Contract for an additional term of up to five (5) years, provided that the Act and, Santa Clara County Code Division C21 permit such an extension. Any such

extension shall be subject to the same requirements as an initial application as set forth in Santa Clara County Code Division C21.

9. PAYMENT OF FEES

Owner agrees to pay any fee authorized by the Santa Clara County Board of Supervisors under the Act and Santa Clara County Code Division C21 for the County's reasonable costs related to implementing and administering the Contract, including but not limited to the costs of inspecting the Property and determining compliance with the Contract, as provided for in Government Code Section 51042(a)(2)(A). Owner shall promptly pay any such request amount within thirty (30) days of receipt of notice of the fee amount due.

10. DEFAULT

An event of default under this Agreement may be any one of the following by the Owner:

- (a) Failure to conduct the agricultural use set forth in Exhibit B;
- (b) Failure to resume agricultural use after cessation in accordance with the requirements of Section 3 herein;
- (c) Failure to allow any inspection as provided in Section 5 herein;
- (d) Termination of this Contract during the term specified herein;
- (e) Failure to pay any fees imposed by the County as provided in Section 9 herein;
- (f) Failure to maintain adequate insurance for the Property; or
- (g) Failure to comply with any other provision of this Contract.

An event of default shall result in cancellation of this Contract as set forth in 12 herein and payment of the cancellation fee and all property taxes due upon the Assessor's determination of the assessed value of the Property as set forth in Section 13 herein.

11. CANCELLATION BY OWNER

In the event Owner cancels this Contract during the Term, Owner shall provide written notice to the Agricultural Commissioner and Assessor and pay the Cancellation Fee as set forth in Section 13 herein. The Assessor shall determine the assessed value of the Property as of the date of cancellation and shall assess all property taxes for the Property without regard to any restriction imposed on the Property by this Contract.

12. CANCELLATION BY COUNTY

County may initiate cancellation of this Contract if it makes a reasonable determination that Owner has breached any condition or covenant contained in this Contract or has defaulted as provided in Section 10 herein. The Agricultural Commissioner shall provide written notice to Owner, the Assessor, and the Department of Planning and Development of his or her intent to cancel the Contract. Owner may file a written appeal of this determination with the Clerk of the Board of Supervisors within fifteen (15) days of the notification as set forth in Santa Clara County Ordinance Code Section C21-10. The Board of Supervisors

shall hold a public hearing to determine whether the Contract should be cancelled. If the Contract is cancelled, the Owner shall pay the Cancellation Fee as set forth in Section 13 herein, and the Assessor shall determine the assessed value of the Property as of the date of cancellation and shall assess all property taxes for the Property without regard to any restriction imposed on the Property by this Contract.

13. CANCELLATION FEE

If Contract is cancelled pursuant to Section 11 or 12, Owner shall pay a cancellation fee equal to the cumulative value of the tax benefit received during the duration of the Contract, as determined by the Assessor, as set forth in Government Code Section 51042(a)(2)(B). This fee shall include the cumulative tax owed, including interest. The cancellation fee shall be paid to the County Tax Collector at such time and in such manner as County shall prescribe. Owner may appeal payment of this fee to the Board of Supervisors as set forth in Santa Clara County Ordinance Code Section C21-10. 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 Owner to comply with the Contract.

14. ENFORCEMENT OF CONTRACT

In lieu of the provisions to cancel the Contract contained herein, the County may bring an action to specifically enforce or to enjoin any breach of any condition of this Contract. If the County determines that Owner has breached this Contract, the County shall give Owner written notice by registered or certified mail setting forth the grounds for the breach. If Owner does not correct the breach, or if Owner does not undertake and diligently pursue corrective action, to the reasonable satisfaction of the County within thirty (30) days from the date of receipt of the notice, then the County may, without further notice, initiate default procedures under this Contract as set forth in Section 11 and bring any action necessary to enforce the obligations of Owner set forth in this Contract. The County does not waive any claim of default by Owner if it does not enforce or cancel this Contract.

15. SUCCESSORS IN INTEREST

This Contract is binding upon and inures to the benefit of all heirs, executors, administrators, trustees, assigns and successors in interest of the Owner. If the Property or any portion thereof is annexed by a city, the city succeeds to all rights, duties and powers of the County under this Contract, except as otherwise provided by the Act.

16. INDEMNITY

Owner and its successors in interest agree to indemnify, defend and hold harmless the County and its officials, employees, and agents from any claim, liability, loss, injury or damage arising out of or in connection with this Contract. Owner shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which Owner is obligated to indemnify, defend and hold harmless the County under this Contract.

17. NO COMPENSATION

It is recognized and agreed that the consideration for the execution of this Contract is the substantial benefit to be derived from, and the advantage that may accrue to Owner as a result of, the effect upon the assessed value of the Property from the restrictions on the Property's use as provided herein. Owner will not receive any payment from County in consideration of the obligations imposed under this Contract.

Notice to Owner must be addressed:

Name: _____
Address: _____
City, State, Zip: _____

19. VOLUNTARY EXECUTION

Owner and County acknowledge that they have been furnished with copies of, and have read, this Contract and that this Contract has been freely and voluntarily entered into by them and they agree to be fully bound by the terms of this Contract. Furthermore, this Contract is executed without reliance upon any representation by any person that is not set forth in this Contract.

20. OWNERS OF RECORD

Each signatory to this Contract personally warrants that he/she has full authority to enter into this Contract and, if signing in a representative capacity, that he/she has full authority to sign on behalf of the person or entity whom he/she represents. Owner warrants that they are the only owners, in fee title, of the Property, and will continue to be the only owners of the Property until the Contract is recorded in the official records of the County Clerk-Recorder.

21. AMENDMENT

This Contract may be amended in whole or in part only by a written recorded instrument executed by the parties hereto in the same manner as this Contract.

22. SEVERABILITY

If any provision of this Contract is determined to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and each other provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

23. SIGNATURES

This Contract may be signed and dated in parts.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by Owner on _____ and by County on _____.

COUNTY OF SANTA CLARA

Dave Cortese, President
Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Attachment: UAIZ Contract Template (77963 : Urban Agriculture Program: AB 551 Implementation)

Elizabeth G. Pianca, Deputy County Counsel

PROPERTY OWNER(S):

Signature

Signature

Name/Title

Name/Title

Signature

Signature

Name/Title

Name/Title

Signature

Signature

Name/Title

Name/Title

[NOTE: Each Owner signature must be properly notarized/acknowledged.]

Exhibits to this Contract:

- A – Property Description (Legal Description)
- B – Agricultural Use Plan

Attachment: UAIZ Contract Template (77963 : Urban Agriculture Program: AB 551 Implementation)

County of Santa Clara

Office of the Clerk of the Board of Supervisors
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110-1770
(408) 299-5001 FAX 938-4525 TDD 993-8272



Megan Doyle
Clerk of the Board

Certificate of Acknowledgment (Civil Code § 1189)

State of California
County of Santa Clara

} ss.

On _____ before me, _____, Deputy Clerk of the
(date) (Deputy's name)

Board of Supervisors, personally appeared _____
(name of individual signing document)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.
Megan Doyle, Clerk of the Board of Supervisors

By _____
Deputy Clerk of the Board of Supervisors

Attachment: UAIZ Contract Template (77963 : Urban Agriculture Program: AB 551 Implementation)



COUNTY OF SANTA CLARA

URBAN AGRICULTURE CONTRACT APPLICATION

Pursuant to Division C21 of the County Ordinance Code, this form must be completed by the property owner, or authorized agent, for the County to evaluate eligibility for an urban agriculture incentive zone contract.

Applications must be submitted to the County of Santa Clara Division of Agriculture no later than November 1 to be eligible for tax reassessment beginning the succeeding calendar year.

Owner and Applicant Information

PROPERTY OWNER'S NAME

PROPERTY OWNER'S MAILING ADDRESS

TELEPHONE

EMAIL

APPLICANT'S NAME

Same as above

APPLICANT'S MAILING ADDRESS

TELEPHONE

EMAIL

Property Information

STREET ADDRESS

ASSESSOR'S PARCEL NUMBER

LOT AREA

Does the site have a driveway for vehicular access?

Yes

No

Are there any existing buildings on site?

Yes

No

Is there on-site water service?

Yes

No

If not, describe how water will be accommodated.

Agriculture Plan

Provide supplementary documentation describing the proposed agricultural operation. Documentation shall include the following:

- Narrative describing the proposed agricultural operation. Should include goals, products, intended distribution of products, activities, construction, irrigation, maintenance, refuse removal, pesticide use, and fertilizer use.
- Site plan, 11 x 17, showing all site features, including property boundaries, right-of-way, labelled growing/ production areas, labelled buildings and structures, utilities, access, landscaping/ other non-agricultural ground cover.
- Tabular description of all growing/ production areas, including land area, agricultural products, months of year in active growing/ production.

Will there be on-site sales of agricultural products? Yes No
 If yes, sales are limited to two days per week in residential districts, and not more than one weekend day.

Can the agricultural operation be established, per plan, within the next 45-60 days? If no, describe the anticipated timeline below. Yes No

Will there be animals raised or kept as part of the agricultural operation? Yes No
 If yes, describe below (or on a separate document).

Community Engagement

Have you engaged neighbors to discuss the proposal and solicit input? Yes No
 If yes, describe below (e.g. flyers, verbal door-to-door communication, signage).

If applicable, describe any community benefit(s) of the proposed urban agricultural operation. Examples include public access, product sales/ donation, and educational programs.

Applicant's Affidavit

I declare that the information presented with this application is true and correct to the best of my knowledge.

Applicant's Signature _____ Date: _____

Attachment: UAIZ Contract Application Form (77963 : Urban Agriculture Program: AB 551 Implementation)

County of Santa Clara
Department of Planning and Development



8.b

78240

DATE: September 29, 2015

TO: Board of Supervisors

FROM: Kirk Girard, Director, Dept. of Planning and Development

SUBJECT: Ordinance NS-1200.352: UAIZ Zoning Revisions

RECOMMENDED ACTION

Adopt Ordinance No. NS-1200.352 amending Appendix I, Zoning, of the County of Santa Clara Ordinance Code to accommodate small-scale urban agriculture. (Roll Call Vote)

Refer to Legislative File 77963.

LINKS:

- Created: 77963 : Public hearing to consider program to implement Assembly Bill (AB) 551, the Urban Agriculture Incentive Zones Act.

ATTACHMENTS:

- NS-1200.352 (PDF)
- NS-1200.352 Redline (PDF)

Ordinance No. NS-1200.352

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF SANTA CLARA AMENDING APPENDIX I, ZONING, OF THE
COUNTY OF SANTA CLARA ORDINANCE CODE TO ACCOMMODATE
SMALL-SCALE URBAN AGRICULTURE**

SUMMARY

This ordinance revises various sections of Appendix I, Zoning, of the County of Santa Clara Ordinance Code to accommodate small-scale urban agriculture. It is part of the County's implementation strategy for Assembly Bill 551, the Urban Agriculture Incentive Zones Act.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1: Section 2.10.040 of Chapter 2.10, Article 2 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is hereby amended to read as follows:

§ 2.10.040 Non-Residential Use Classifications

//

Agriculture. (Agricultural) Raising of animals, crops, or crop trees, including horticulture, crops grown within greenhouses, vineyards, crop harvesting, livestock farming, apiaries, aviaries, worm farms, fish farms, fur farms, 4-H projects, Future Farmers of America projects, or those of similar groups, grazing, and ranching. This classification excludes uses that have the potential to result in significant off-site impacts (see *Dairies, Feed Lots, Livestock Auction Yards, Mushroom Farms, Poultry & Egg Farms-Commercial*). All uses within this classification shall fit within one of the following subcategories:

1. **General.** The raising of agricultural commodities other than livestock.
2. **Livestock.** The raising of livestock.
3. **Urban.** Agricultural activity within an urban setting, scaled and operated to be compatible with adjacent urban land uses. Includes growing of agricultural products and limited raising of livestock. Also includes community supported agriculture, communal gardens, and educational demonstration gardens. Livestock shall be limited to no more than 12 small animals as provided in Note 6 of Table 2.30-1. [Criteria/Findings § 4.10.025].

SECTION 2: Section 2.30.020 of Chapter 2.30, Article 2 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is hereby amended to read as follows:

§ 2.30.020 Use Regulations

The following tables, Tables 2.30-1 and 2.30-2, specify the allowable land uses for the urban residential base districts, listed by use classification as defined in Chapter 2.10. The regulations for each district are established by letter designations as follows:

- “R” designates use classifications that are permitted by right. The term “by right” indicates no discretionary permit process by the Planning Office is required. See subsection 1.20.040(D) for applicability of other rules and processes.
- “S” designates use classifications permitted with a special permit, subject to the provisions of Chapter 5.60, Special Permit.
- “A” designates use classifications permitted with architecture and site approval, subject to the provisions of Chapter 5.40, Architecture and Site Approval.
- “U” designates use classifications permitted with a use permit, and architecture and site approval, subject to the provisions of Chapter 5.65, Use Permit, and Chapter 5.40, Architecture and Site Approval.
- “-” designates use classifications that are not allowed.

Supplemental regulations for the establishment and conduct of a use are referenced in the “Supplemental Regulations” column of the table. Use classifications not listed in the table are prohibited in the urban residential base districts.

USE CLASSIFICATIONS	ZONING							Supplemental Regulations
	R1	R1E	RHS	R1S	R3S	R2	R3	
Residences								
Single-Family	R	R	R	R	A	R	R	Note 1, 2 (R1S)
Two-Family	-	-	-	R	A	R	R	Note 1, 2 (R1S)
Multi-Family	-	-	-	A	A	-	A	
Residential Accessory Structures & Uses	R	R	R	R	R	R	R	§ 4.20.020 Note 3 (R3S)

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ ASA (Ch 5.65, 5.40)
 - Not Permitted

**Table 2.30-1
RESIDENTIAL USES
IN URBAN RESIDENTIAL BASE DISTRICTS**

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ ASA (Ch 5.65, 5.40)
 - Not Permitted

USE CLASSIFICATIONS	ZONING							Supplemental Regulations
	R1	R1E	RHS	R1S	R3S	R2	R3	
Community Care								
Limited	R	R	R	R	R	R	R	§ 4.10.090, Note 4
Expanded	U	U	U	A	A	U	A	§ 4.10.090
Domestic Animals								
Dogs & Cats	R	R	R	R	R	R	R	Note 5
Small Animals	R	R	R	R	R	R	R	Note 6
Horses	R	R	R	R	-	-	-	Note 7
Emergency Shelters								
Small-Scale	-	-	-	-	-	-	R	§ 4.10.115
Large-Scale	-	-	-	-	-	-	U	§ 4.10.115
Home Occupations								
General	R	R	R	R	R	R	R	§ 4.10.180
Expanded	S	S	S	S	S	S	S	§ 4.10.180, Note 8
Residential – Communal Institutional	U	U	U	-	-	U	U	
Rooming Houses, Fraternities & Sororities	U	U	-	-	-	U	A	
Secondary Dwellings	R	R	R	R	A	-	-	§ 4.10.340 Notes 1, 9, 10
Temporary Residence / Construction	R	R	R	R	R	R	R	§ 4.10.380

NOTES:

1. Single-family dwellings, including certain additions, new secondary dwellings, and duplexes, may be subject to the building site approval provisions of Sections C12-300 et seq. of the County Ordinance Code.
2. In R1S districts, ASA is required for new single-family residences on lots smaller than 10,890 square feet (0.25 acre). Two-family residences are not permitted on lots smaller than 10,890 square feet, and ASA is required for new two-family residences on lots smaller than 21,780 square feet (0.50 acre). ASA is not required for additions or remodels of existing dwellings.

3. In R3S districts, accessory structures not meeting the criteria of § 4.20.020 may be allowed subject to ASA.
4. Facilities qualifying as “Large-Family Day-Care Homes,” serving between 7 and 14 children, are subject to an administrative permit, per the provisions of Division B24 of the County Ordinance Code.
5. Not to exceed two (2) dogs and five (5) cats over four months of age on parcels less than five acres, or three (3) dogs and five (5) cats over four months of age on parcels five acres or more, unless the required permit is secured pursuant to Division B31 of the County Ordinance Code.
6. Small Animals – Limited. Not to exceed a total of twelve (12) of any of the following small animals: rabbits, guinea pigs, chicken and fowl, and similar species as approved by the Zoning Administrator. Roosters, peafowl, guinea fowl, geese or quacking ducks are not allowed.
7. Horses. Minimum lot size for the keeping of horses in urban residential districts is one-half acre. Not to exceed two horses per acre.
8. Expanded home occupations are permitted on lots of one acre or larger. See § 4.10.180 for other criteria.
9. In R3S districts, no secondary dwelling may exceed 640 square feet, and the number of secondary dwellings in a given development may not exceed 25% of the total primary units allowed by the applicable density limitation.
10. In districts where permitted, detached secondary dwellings are subject to a 10,000 square foot minimum lot size. See § 4.10.340(C) for other criteria.

Table 2.30-2

**NON-RESIDENTIAL USE CLASSIFICATIONS
IN URBAN RESIDENTIAL BASE DISTRICTS**

- R** Permitted by Right
- S** Special Permit (Ch 5.60)
- A** ASA (Ch 5.40)
- U** Use Permit/ ASA (Ch 5.65, 5.40)
- Not Permitted

USE CLASSIFICATIONS	ZONING							Supplemental Regulations
	R1	R1E	RHS	R1S	R3S	R2	R3	
Agriculture								
General	–	–	R	–	–	–	–	Note 1
Livestock	–	–	R	–	–	–	–	Note 1
Urban	R	R	R	R	R	R	R	§ 4.10.025
Antennas – Commercial								
Minor	A	A	A	A	A	A	A	
Major	U	U	U	A	A	U	U	
Churches (See “Religious Institutions”)								
Community Care								
Limited	R	R	R	R	R	R	R	§ 4.10.090, Note 3
Expanded	U	U	U	A	A	U	A	§ 4.10.090

Table 2.30-2

**NON-RESIDENTIAL USE CLASSIFICATIONS
IN URBAN RESIDENTIAL BASE DISTRICTS**

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ ASA (Ch 5.65, 5.40)
 - Not Permitted

USE CLASSIFICATIONS	ZONING							Supplemental Regulations
	R1	R1E	RHS	R1S	R3S	R2	R3	
Emergency Shelters								
Small-Scale	-	-	-	-	-	-	R	§ 4.10.115
Large-Scale	-	-	-	-	-	-	U	§ 4.10.115
Golf Courses & Country Clubs	U	U	-	-	-	-	-	
Historic Structures—Use Conversion	-	-	A	-	-	-	-	§ 4.10.170
Hospitals & Clinics	U	U	U	A	A	U	U	
Museums	U	U	U	A	A	U	U	
Nonprofit Institutions	U	U	U	A	A	U	U	Note 6
Religious Institutions	U	U	U	A	A	U	U	Note 6
Retail Sales & Services—Local Serving	-	-	-	A	A	-	A	Note 2
Schools	U	U	U	A	A	U	U	
Swim & Tennis Clubs	U	U	U	A	A	U	U	
Utilities and Public Facilities								Note 4
Minor	A	A	A	A	A	A	A	
Major	U	U	U	A	A	U	U	
Wireless Telecommunication Facilities								
Co-location	A	A	A	A	A	A	A	§ 4.10.400, Note 5
Minor	A	A	A	A	A	A	A	§ 4.10.400
Major	U	U	U	A	A	U	U	§ 4.10.400

NOTES:

1. On lots 2.5 acres or larger in RHS districts, all agricultural uses permitted in HS districts as a matter of right (see Table 2.20-2) shall be allowed.
2. Commercial and service uses permitted in R1S, R3S and R3 districts shall be limited in scale and in their service market to primarily serve the residents of the subject residential development. For residential support uses in R1S and R3S districts applicable to Stanford University lands, a business plan is required demonstrating that a preponderance of customers will be Stanford residents or employees.

3. Facilities qualifying as “Large-Family Day-Care Homes,” serving between 7 and 14 children, are subject to an administrative permit, per the provisions of Division B24 of the County Ordinance Code.
4. Utility structures and facilities may be exempt from local zoning regulations if they are established by a government agency. There may also be federal or state laws that provide exemptions for certain types of utilities.
5. Co-location of wireless telecommunication facilities may be eligible for an ASA administrative review and approval (§ 5.40.050), where consistent with the provisions of this ordinance. Where the proposed co-location meets the criteria in Government Code §65850.6(b) relating to previously approved facilities permitted by a means of a discretionary permit issued on or after January 1, 2007, and either a negative declaration, mitigated negative declaration, or environmental impact report was prepared and adopted, the co-location shall be reviewed for consistency with the approved plans, mitigation requirements, and conditions imposed on the existing facility, and if found consistent, will be subject only to a building permit or other applicable permits required by Title C of the County Ordinance Code..
6. Established *Religious Institutions* and *Nonprofit Institutions* may include *Emergency Shelters: Small-Scale* as an ancillary use by right.

SECTION 3: Section 2.40.020 of Chapter 2.40, Article 2 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is hereby amended to read as follows:

§ 2.40.020 Use Regulations

The following table, Table 2.40-1, specifies the allowable land uses for the commercial and industrial base districts, listed by use classification as defined in Chapter 2.10. The regulations for each district are established by letter designations as follows:

- “R” designates use classifications that are permitted by right. The term “by right” indicates no discretionary permit process by the Planning Office is required. See subsection 1.20.040(D) for applicability of other rules and processes.
- “S” designates use classifications permitted with a special permit, subject to the provisions of Chapter 5.60, Special Permit.
- “A” designates use classifications permitted with architecture and site approval, subject to the provisions of Chapter 5.40, Architecture and Site Approval.
- “U” designates use classifications permitted with a use permit, and architecture and site approval, subject to the provisions of Chapter 5.65, Use Permit, and Chapter 5.40, Architecture and Site Approval.
- “_” designates use classifications that are not allowed.

Supplemental regulations for the establishment and conduct of a use are referenced in the “Supplemental Regulations” column of the table. Use classifications not listed in the table are prohibited in the commercial and industrial base districts.

Table 2.40-1

USES IN COMMERCIAL AND INDUSTRIAL BASE DISTRICTS

- R** Permitted by Right
- S** Special Permit (Ch 5.60)
- A** ASA (Ch 5.40)
- U** Use Permit/ASA (Ch 5.65, 5.40)
- Not Permitted

USE CLASSIFICATIONS	ZONING					Supplemental Regulations
	CN	CG	OA	ML	MH	
Adult Uses	–	U	–	U	U	§ 4.10.020
Agriculture						
General	–	–	–	–	–	
Livestock	–	–	–	–	–	
Urban	R	R	R	R	R	§ 4.10.025
Antennas – Commercial						
Minor	A	A	A	A	A	
Major	U	U	U	U	U	
Auction Houses	–	–	–	A	A	
Automobile Sales & Services						
Limited Repair	–	U	–	A	A	Note 1 (CG)
General Repair	–	–	–	A	A	
Sales & Rentals	–	U	–	A	A	
Service Stations	U	U	–	A	A	
Storage	–	–	–	A	A	
Washing	U	U	–	A	A	
Banks	A	A	–	A	A	
Billboards	U	U	–	U	U	
Broadcasting	–	–	–	U	U	
Business Services	A	A	–	A	A	
Caretakers’ Residences	–	–	–	U	U	
Churches (See “Religious Institutions”)						
Clubs, Private & Nonprofit	U	U	–	U	U	
Colleges & Vocational Schools	–	U	–	U	U	
Community Care						
Limited	R	R	R	R	R	§ 4.10.090, Note 2

Table 2.40-1

**USES IN COMMERCIAL AND INDUSTRIAL
BASE DISTRICTS**

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ASA (Ch 5.65, 5.40)
 - Not Permitted

USE CLASSIFICATIONS	ZONING					Supplemental Regulations
	CN	CG	OA	ML	MH	
Expanded	U	U	U	U	U	§ 4.10.090
Contractors' Facilities	-	-	-	A	A	
Emergency Shelters						
Small-Scale	R	R	R	R	R	§ 4.10.115
Large-Scale	U	U	U	U	U	§ 4.10.115
Food Preparation & Catering Services	A	A	-	A	A	
Funeral & Cremation Services	-	U	-	A	A	
Health & Fitness Clubs	-	A	-	A	A	
Hospitals & Clinics	U	U	U	U	U	
Hotels & Motels	U	U	-	-	-	
Kennels – Commercial	-	U	-	A	A	§ 4.10.200
Laboratories & Testing Services	-	-	A	A	A	
Laundries – Industrial	-	U	-	U	A	
Machinery & Equipment Services						
Limited	U	A	-	A	A	
General	-	-	-	A	A	
Maintenance & Repair Services	A	A	-	A	A	
Manufactured-Home Sales & Rentals	-	-	-	U	U	
Manufacturing						
Limited	-	-	-	A	A	
General	-	-	-	U	A	
Intensive	-	-	-	-	U	
Massage Establishments	A	A	A	-	-	Note 3
Museums	U	U	U	U	U	
Nonprofit Institutions	U	U	U	U	U	Note 9
Nurseries						
Retail	A	A	-	A	A	
Wholesale	-	-	-	A	A	

Table 2.40-1

**USES IN COMMERCIAL AND INDUSTRIAL
BASE DISTRICTS**

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ASA (Ch 5.65, 5.40)
 - Not Permitted

USE CLASSIFICATIONS	ZONING					Supplemental Regulations
	CN	CG	OA	ML	MH	
Offices	A	A	A	A	A	
Parking Services & Facilities	-	A	-	A	A	
Personal Services	A	A	-	A	A	
Petroleum Products Distribution	-	-	-	U	U	
Recreation – Commercial	-	U	-	U	-	
Recycling						
Collection Facilities – Consumer Recycling	R	R	R	R	R	§ 4.10.285
Recycling/ Processing Facilities – Consumer Waste	-	-	-	-	U	
Concrete, Asphalt, & Soil Recycling	-	-	-	-	U	
Composting & Wood Recycling	-	-	-	-	U	
Hazardous Materials	-	-	-	-	U	
Religious Institutions	U	U	U	U	U	Note 9
Residences						
Single-Family	U	U	U	-	-	Note 5 (CN, CG) Note 6 (ML, MH)
Two-Family	U	U	U	-	-	Note 5 (CN, CG) Note 6 (ML, MH)
Multi-Family	U	U	U	-	-	Note 5 (CN, CG) Note 6 (ML, MH)
Residential Accessory Structures & Uses	R	R	R	R	R	§ 4.20.020
Restaurants & Bars	A	A	-	A	A	
Retail Sales & Services						
Local-Serving	A	A	-	-	-	
General	A	A	-	A	A	
Outdoor Sales & Storage	-	U	-	A	A	
Schools	U	U	U	U	U	
Studios, Arts & Crafts	A	A	-	A	A	
Taxidermy	-	-	-	A	A	

Table 2.40-1

**USES IN COMMERCIAL AND INDUSTRIAL
BASE DISTRICTS**

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ASA (Ch 5.65, 5.40)
 - Not Permitted

USE CLASSIFICATIONS	ZONING					Supplemental Regulations
	CN	CG	OA	ML	MH	
Theaters	-	U	-	U	-	
Truck & Railroad Terminals	-	-	-	A	A	
Truck Sales & Services						
Repair	-	-	-	A	A	
Sales	-	-	-	A	A	
Storage	-	-	-	A	A	
Utilities and Public Facilities						Note 7
Minor	A	A	A	A	A	
Major	U	U	U	U	U	
Warehousing & Storage						
Indoor	-	-	-	A	A	
Outdoor	-	-	-	A	A	
Wholesaling & Distribution	-	-	-	A	A	
Wireless Telecommunication Facilities						
Co-location	A	A	A	A	A	§ 4.10.400, Note 8
Minor	A	A	A	A	A	§ 4.10.400
Major	U	U	U	U	U	§ 4.10.400

NOTES:

1. In CG districts, limited auto rental establishments, including a business office and not more than 10 cars (stock) on site at any time, are not subject to a use permit, only ASA.
2. Facilities qualifying as “Large-Family Day-Care Homes,” serving between 7 and 14 children, are subject to an administrative permit, per the provisions of Division B24 of the County Ordinance Code.
3. Massage establishments shall comply with the provisions of Division B22 of the County Ordinance Code.
4. [Reserved]
5. Commercial/residential mixed uses are permitted in CN and CG districts subject to use permit and ASA.
6. Expansion or replacement of legal-nonconforming residence in ML and MH districts subject to use permit, per § 4.50.060.

7. Utility structures and facilities may be exempt from local zoning regulations if they are established by a government agency. There may also be federal or state laws that provide exemptions for certain types of utilities.
8. Co-location of wireless telecommunication facilities may be eligible for an ASA administrative review and approval (§ 5.40.050), where consistent with the provisions of this ordinance. Where the proposed co-location meets the criteria in Government Code § 65850.6(b) relating to previously approved facilities permitted by a means of a discretionary permit issued on or after January 1, 2007, and either a negative declaration, mitigated negative declaration, or environmental impact report was prepared and adopted, the co-location shall be reviewed for consistency with the approved plans, mitigation requirements, and conditions imposed on the existing facility, and if found consistent, will be subject only to a building permit or other applicable permits required by Title C of the County Ordinance Code.
9. Established *Religious Institutions* and *Nonprofit Institutions* may include *Emergency Shelters: Small-Scale* as an ancillary use by right.

SECTION 4: The following new Section 4.10.025 is hereby added to Chapter 4.10, Article 4 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code:

§ 4.10.025 Agriculture: Urban

This section applies to uses classified as *Agriculture: Urban* in § 2.10.040. Uses classified as *Agriculture: Urban* shall be subject to all of the following:

- A. **Structures.** Structures supporting urban agriculture shall conform to § 4.20.020 for accessory structures; provided, however, that portable and temporary shelter structures, including hoop-houses, greenhouses and modular units, may be placed anywhere outside of the front-yard setback required by the applicable zoning regulations for principal buildings (see tables 2.30-3 and 2.40-2).
- B. **Fences.** Notwithstanding the limitations on fences in urban residential districts in § 4.20.020, a fence taller than three (3) feet, but not taller than six (6) feet in height may be erected within the front 20 feet of the lot, or within any portion of a lot where a three (3)-foot height limitation may otherwise be applicable. Such front-yard fence shall have a “substantially open” composition, where not more than 25% of the vertical surface plane is solid when viewed perpendicular to the fence. Such front-yard fence shall be removed immediately upon the cessation of the urban agriculture use.
- C. **On-Site Sales.** On-site sales of agricultural products shall be allowed, subject to all of the following:
 1. Only agricultural products, including value-added products, grown and produced on the site shall be sold.

- 2. Sales shall be limited to not more than two (2) days per week in R1, R1E, RHS, R1S, R3S, R2, and R3 districts. Not more than one (1) of the two (2) days may be a weekend day.
- 3. A stand or other structure may be used for product sales. In R1, R1E, RHS, R1S, R3S, R2, and R3 districts, such stand or structure shall be portable, and shall be dismantled or removed during non-operating hours.

- D. **Composting, Refuse Storage.** Compost bins and refuse containers shall be located no closer than five (5) feet to any property line. Composting activity and refuse storage shall be designed and operated to discourage rodents and pest insects.
- E. **Signs.** On-site signs may be installed to provide identification, information and directions relating to the urban agriculture operation. No sign shall be larger than eight (8) square feet in area, nor taller than 12 feet in height.
- F. **Pesticides.** Pesticide use shall be subject to applicable federal and state regulations, and may require permits from the County Division of Agriculture.

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SECTION 5: Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof, other than the section so declared to be unconstitutional or invalid.

Attachment: NS-1200.352 (78240 : Ordinance NS-1200.352: UAIZ Zoning Revisions)

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

AYES:

NOES:

ABSENT:


ABSTAIN:

Dave Cortese, President
Board of Supervisors

ATTEST:

Megan Doyle
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



9/4/2015
Elizabeth G. Pianca
Deputy County Counsel

Attachment: NS-1200.352 (78240 : Ordinance NS-1200.352: UAIZ Zoning Revisions)

Ordinance No. NS-1200.352

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF SANTA CLARA AMENDING APPENDIX I, ZONING, OF THE
COUNTY OF SANTA CLARA ORDINANCE CODE TO ACCOMMODATE
SMALL-SCALE URBAN AGRICULTURE

SUMMARY

This ordinance revises various sections of Appendix I, Zoning, of the County of Santa Clara Ordinance Code to accommodate small-scale urban agriculture. It is part of the County's implementation strategy for Assembly Bill 551, the Urban Agriculture Incentive Zones Act.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1: Section 2.10.040 of Chapter 2.10, Article 2 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

§ 2.10.040 Non-Residential Use Classifications

//

Agriculture. (Agricultural) Raising of animals, crops, or crop trees, including horticulture, crops grown within greenhouses, vineyards, crop harvesting, livestock farming, apiaries, aviaries, worm farms, fish farms, fur farms, 4-H projects, Future Farmers of America projects, or those of similar groups, grazing, and ranching. This classification excludes uses that have the potential to result in significant off-site impacts (see *Dairies, Feed Lots, Livestock Auction Yards, Mushroom Farms, Poultry & Egg Farms – Commercial*). All uses within this classification shall fit within one of the following subcategories:

1. **General.** The raising of agricultural commodities other than livestock.
2. **Livestock.** The raising of livestock.
3. **Urban.** Agricultural activity within an urban setting, scaled and operated to be compatible with adjacent urban land uses. Includes growing of agricultural products and limited raising of livestock. Also includes community supported agriculture, communal gardens, and educational demonstration gardens. Livestock shall be limited to no more than 12 small animals as provided in Note 6 of Table 2.30-1. [Criteria/Findings § 4.10.025].

//

SECTION 2: Section 2.30.020 of Chapter 2.30, Article 2 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

§ 2.30.020 Use Regulations

The following tables, Tables 2.30-1 and 2.30-2, specify the allowable land uses for the urban residential base districts, listed by use classification as defined in Chapter 2.10. The regulations for each district are established by letter designations as follows:

- “R” designates use classifications that are permitted by right. The term “by right” indicates no discretionary permit process by the Planning Office is required. See subsection 1.20.040(D) for applicability of other rules and processes.
- “S” designates use classifications permitted with a special permit, subject to the provisions of Chapter 5.60, Special Permit.
- “A” designates use classifications permitted with architecture and site approval, subject to the provisions of Chapter 5.40, Architecture and Site Approval.
- “U” designates use classifications permitted with a use permit, and architecture and site approval, subject to the provisions of Chapter 5.65, Use Permit, and Chapter 5.40, Architecture and Site Approval.
- “_” designates use classifications that are not allowed.

Supplemental regulations for the establishment and conduct of a use are referenced in the “Supplemental Regulations” column of the table. Use classifications not listed in the table are prohibited in the urban residential base districts.

<p>Table 2.30-1 RESIDENTIAL USES IN URBAN RESIDENTIAL BASE DISTRICTS</p>	<p>R Permitted by Right S Special Permit (Ch 5.60) A ASA (Ch 5.40) U Use Permit/ ASA (Ch 5.65, 5.40) - Not Permitted</p>
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USE CLASSIFICATIONS	ZONING							Supplemental Regulations
	R1	R1E	RHS	R1S	R3S	R2	R3	
Residences Single-Family	R	R	R	R	A	R	R	Note 1, 2 (R1S)

Table 2.30-1

**RESIDENTIAL USES
IN URBAN RESIDENTIAL BASE DISTRICTS**

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ ASA (Ch 5.65, 5.40)
 - Not Permitted

USE CLASSIFICATIONS	ZONING							Supplemental Regulations
	R1	R1E	RHS	R1S	R3S	R2	R3	
Two-Family	-	-	-	R	A	R	R	Note 1, 2 (R1S)
Multi-Family	-	-	-	A	A	-	A	
Residential Accessory Structures & Uses	R	R	R	R	R	R	R	§ 4.20.020 Note 3 (R3S)
Community Care								
Limited	R	R	R	R	R	R	R	§ 4.10.090, Note 4
Expanded	U	U	U	A	A	U	A	§ 4.10.090
Domestic Animals								
Dogs & Cats	R	R	R	R	R	R	R	Note 5
Small Animals	R	R	R	R	R	R	R	Note 6
Horses	R	R	R	R	-	-	-	Note 7
Emergency Shelters								
Small-Scale	-	-	-	-	-	-	R	§ 4.10.115
Large-Scale	-	-	-	-	-	-	U	§ 4.10.115
Home Occupations								
General	R	R	R	R	R	R	R	§ 4.10.180
Expanded	S	S	S	S	S	S	S	§ 4.10.180, Note 8
Residential – Communal Institutional	U	U	U	-	-	U	U	
Rooming Houses, Fraternities & Sororities	U	U	-	-	-	U	A	
Secondary Dwellings	R	R	R	R	A	-	-	§ 4.10.340 Notes 1, 9, 10
Temporary Residence / Construction	R	R	R	R	R	R	R	§ 4.10.380

NOTES:

1. Single-family dwellings, including certain additions, new secondary dwellings, and duplexes, may be subject to the building site approval provisions of Sections C12-300 et seq. of the County Ordinance Code.

2. In R1S districts, ASA is required for new single-family residences on lots smaller than 10,890 square feet (0.25 acre). Two-family residences are not permitted on lots smaller than 10,890 square feet, and ASA is required for new two-family residences on lots smaller than 21,780 square feet (0.50 acre). ASA is not required for additions or remodels of existing dwellings.
3. In R3S districts, accessory structures not meeting the criteria of § 4.20.020 may be allowed subject to ASA.
4. Facilities qualifying as “Large-Family Day-Care Homes,” serving between 7 and 14 children, are subject to an administrative permit, per the provisions of Division B24 of the County Ordinance Code.
5. Not to exceed two (2) dogs and five (5) cats over four months of age on parcels less than five acres, or three (3) dogs and five (5) cats over four months of age on parcels five acres or more, unless the required permit is secured pursuant to Division B31 of the County Ordinance Code.
6. Small Animals – Limited. Not to exceed a total of twelve (12) of any of the following small animals: rabbits, guinea pigs, chicken and fowl, and similar species as approved by the Zoning Administrator. Roosters, peafowl, guinea fowl, geese or quacking ducks are not allowed.
7. Horses. Minimum lot size for the keeping of horses in urban residential districts is one-half acre. Not to exceed two horses per acre.
8. Expanded home occupations are permitted on lots of one acre or larger. See § 4.10.180 for other criteria.
9. In R3S districts, no secondary dwelling may exceed 640 square feet, and the number of secondary dwellings in a given development may not exceed 25% of the total primary units allowed by the applicable density limitation.
10. In districts where permitted, detached secondary dwellings are subject to a 10,000 square foot minimum lot size. See § 4.10.340(C) for other criteria.

Table 2.30-2

**NON-RESIDENTIAL USE CLASSIFICATIONS
IN URBAN RESIDENTIAL BASE DISTRICTS**

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ ASA (Ch 5.65, 5.40)
 - Not Permitted

USE CLASSIFICATIONS	ZONING							Supplemental Regulations
	R1	R1E	RHS	R1S	R3S	R2	R3	
Agriculture	-	-	R	-	-	-	-	Note 1
<u>Agriculture</u>								
<u>General</u>	=	=	R	=	=	=	=	Note 1
<u>Livestock</u>	=	=	R	=	=	=	=	Note 1
<u>Urban</u>	R	R	R	R	R	R	R	§ 4.10.025
Antennas – Commercial								
Minor	A	A	A	A	A	A	A	
Major	U	U	U	A	A	U	U	

Attachment: NS-1200.352 Redline (78240 : Ordinance NS-1200.352: UAIZ Zoning Revisions)

Table 2.30-2

**NON-RESIDENTIAL USE CLASSIFICATIONS
IN URBAN RESIDENTIAL BASE DISTRICTS**

- R** Permitted by Right
- S** Special Permit (Ch 5.60)
- A** ASA (Ch 5.40)
- U** Use Permit/ ASA (Ch 5.65, 5.40)
- Not Permitted

USE CLASSIFICATIONS	ZONING							Supplemental Regulations
	R1	R1E	RHS	R1S	R3S	R2	R3	
Churches (See “Religious Institutions”)								
Community Care								
Limited	R	R	R	R	R	R	R	§ 4.10.090, Note 3
Expanded	U	U	U	A	A	U	A	§ 4.10.090
Emergency Shelters								
Small-Scale	-	-	-	-	-	-	R	§ 4.10.115
Large-Scale	-	-	-	-	-	-	U	§ 4.10.115
Golf Courses & Country Clubs	U	U	-	-	-	-	-	
Historic Structures – Use Conversion	-	-	A	-	-	-	-	§ 4.10.170
Hospitals & Clinics	U	U	U	A	A	U	U	
Museums	U	U	U	A	A	U	U	
Nonprofit Institutions	U	U	U	A	A	U	U	Note 6
Religious Institutions	U	U	U	A	A	U	U	Note 6
Retail Sales & Services – Local Serving	-	-	-	A	A	-	A	Note 2
Schools	U	U	U	A	A	U	U	
Swim & Tennis Clubs	U	U	U	A	A	U	U	
Utilities and Public Facilities								Note 4
Minor	A	A	A	A	A	A	A	
Major	U	U	U	A	A	U	U	
Wireless Telecommunication Facilities								
Co-location	A	A	A	A	A	A	A	§ 4.10.400, Note 5
Minor	A	A	A	A	A	A	A	§ 4.10.400
Major	U	U	U	A	A	U	U	§ 4.10.400

NOTES:

1. On lots 2.5 acres or larger in RHS districts, all agricultural uses permitted in HS districts as a matter of right (see Table 2.20-2) shall be allowed.
2. Commercial and service uses permitted in R1S, R3S and R3 districts shall be limited in scale and in their service market to primarily serve the residents of the subject residential development. For residential support uses in R1S and R3S districts applicable to Stanford University lands, a business plan is required demonstrating that a preponderance of customers will be Stanford residents or employees.
3. Facilities qualifying as “Large-Family Day-Care Homes,” serving between 7 and 14 children, are subject to an administrative permit, per the provisions of Division B24 of the County Ordinance Code.
4. Utility structures and facilities may be exempt from local zoning regulations if they are established by a government agency. There may also be federal or state laws that provide exemptions for certain types of utilities.
5. Co-location of wireless telecommunication facilities may be eligible for an ASA administrative review and approval (§ 5.40.050), where consistent with the provisions of this ordinance. Where the proposed co-location meets the criteria in Government Code §65850.6(b) relating to previously approved facilities permitted by a means of a discretionary permit issued on or after January 1, 2007, and either a negative declaration, mitigated negative declaration, or environmental impact report was prepared and adopted, the co-location shall be reviewed for consistency with the approved plans, mitigation requirements, and conditions imposed on the existing facility, and if found consistent, will be subject only to a building permit or other applicable permits required by Title C of the County Ordinance Code..
6. Established *Religious Institutions* and *Nonprofit Institutions* may include *Emergency Shelters: Small-Scale* as an ancillary use by right.

SECTION 3: Section 2.40.020 of Chapter 2.40, Article 2 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

§ 2.40.020 Use Regulations

The following table, Table 2.40-1, specifies the allowable land uses for the commercial and industrial base districts, listed by use classification as defined in Chapter 2.10. The regulations for each district are established by letter designations as follows:

- “R” designates use classifications that are permitted by right. The term “by right” indicates no discretionary permit process by the Planning Office is required. See subsection 1.20.040(D) for applicability of other rules and processes.
- “S” designates use classifications permitted with a special permit, subject to the provisions of Chapter 5.60, Special Permit.
- “A” designates use classifications permitted with architecture and site approval, subject to the provisions of Chapter 5.40, Architecture and Site Approval.

“U” designates use classifications permitted with a use permit, and architecture and site approval, subject to the provisions of Chapter 5.65, Use Permit, and Chapter 5.40, Architecture and Site Approval.

“-” designates use classifications that are not allowed.

Supplemental regulations for the establishment and conduct of a use are referenced in the “Supplemental Regulations” column of the table. Use classifications not listed in the table are prohibited in the commercial and industrial base districts.

Table 2.40-1

USES IN COMMERCIAL AND INDUSTRIAL BASE DISTRICTS

- R** Permitted by Right
- S** Special Permit (Ch 5.60)
- A** ASA (Ch 5.40)
- U** Use Permit/ASA (Ch 5.65, 5.40)
- Not Permitted

USE CLASSIFICATIONS	ZONING					Supplemental Regulations
	CN	CG	OA	ML	MH	
Adult Uses	-	U	-	U	U	§ 4.10.020
<u>Agriculture</u>						
<u>General</u>	=	=	=	=	=	
<u>Livestock</u>	=	=	=	=	=	
<u>Urban</u>	R	R	R	R	R	§ 4.10.025
Antennas – Commercial						
Minor	A	A	A	A	A	
Major	U	U	U	U	U	
Auction Houses	-	-	-	A	A	
Automobile Sales & Services						
Limited Repair	-	U	-	A	A	Note 1 (CG)
General Repair	-	-	-	A	A	
Sales & Rentals	-	U	-	A	A	
Service Stations	U	U	-	A	A	
Storage	-	-	-	A	A	
Washing	U	U	-	A	A	
Banks	A	A	-	A	A	
Billboards	U	U	-	U	U	
Broadcasting	-	-	-	U	U	
Business Services	A	A	-	A	A	
Caretakers’ Residences	-	-	-	U	U	

Table 2.40-1

**USES IN COMMERCIAL AND INDUSTRIAL
BASE DISTRICTS**

- R** Permitted by Right
- S** Special Permit (Ch 5.60)
- A** ASA (Ch 5.40)
- U** Use Permit/ASA (Ch 5.65, 5.40)
- Not Permitted

USE CLASSIFICATIONS	ZONING					Supplemental Regulations
	CN	CG	OA	ML	MH	
Churches (See “Religious Institutions”)						
Clubs, Private & Nonprofit	U	U	–	U	U	
Colleges & Vocational Schools	–	U	–	U	U	
Community Care						
Limited	R	R	R	R	R	§ 4.10.090, Note 2
Expanded	U	U	U	U	U	§ 4.10.090
Contractors’ Facilities	–	–	–	A	A	
Emergency Shelters						
Small-Scale	R	R	R	R	R	§ 4.10.115
Large-Scale	U	U	U	U	U	§ 4.10.115
Food Preparation & Catering Services	A	A	–	A	A	
Funeral & Cremation Services	–	U	–	A	A	
Health & Fitness Clubs	–	A	–	A	A	
Hospitals & Clinics	U	U	U	U	U	
Hotels & Motels	U	U	–	–	–	
Kennels – Commercial	–	U	–	A	A	§ 4.10.200
Laboratories & Testing Services	–	–	A	A	A	
Laundries – Industrial	–	U	–	U	A	
Machinery & Equipment Services						
Limited	U	A	–	A	A	
General	–	–	–	A	A	
Maintenance & Repair Services	A	A	–	A	A	
Manufactured-Home Sales & Rentals	–	–	–	U	U	
Manufacturing						
Limited	–	–	–	A	A	
General	–	–	–	U	A	
Intensive	–	–	–	–	U	

Attachment: NS-1200.352 Redline (78240 : Ordinance NS-1200.352: UAIZ Zoning Revisions)

Table 2.40-1

**USES IN COMMERCIAL AND INDUSTRIAL
BASE DISTRICTS**

R Permitted by Right
S Special Permit (Ch 5.60)
A ASA (Ch 5.40)
U Use Permit/ASA (Ch 5.65, 5.40)
 – Not Permitted

USE CLASSIFICATIONS	ZONING					Supplemental Regulations
	CN	CG	OA	ML	MH	
Massage Establishments	A	A	A	–	–	Note 3
Museums	U	U	U	U	U	
Nonprofit Institutions	U	U	U	U	U	Note 9
Nurseries						
Retail	A	A	–	A	A	
Wholesale	–	–	–	A	A	
Offices	A	A	A	A	A	
Parking Services & Facilities	–	A	–	A	A	
Personal Services	A	A	–	A	A	
Petroleum Products Distribution	–	–	–	U	U	
Recreation – Commercial	–	U	–	U	–	
Recycling						
Collection Facilities – Consumer Recycling	R	R	R	R	R	§ 4.10.285
Recycling/ Processing Facilities – Consumer Waste	–	–	–	–	U	
Concrete, Asphalt, & Soil Recycling	–	–	–	–	U	
Composting & Wood Recycling	–	–	–	–	U	
Hazardous Materials	–	–	–	–	U	
Religious Institutions	U	U	U	U	U	Note 9
Residences						
Single-Family	U	U	U	–	–	Note 5 (CN, CG) Note 6 (ML, MH)
Two-Family	U	U	U	–	–	Note 5 (CN, CG) Note 6 (ML, MH)
Multi-Family	U	U	U	–	–	Note 5 (CN, CG) Note 6 (ML, MH)
Residential Accessory Structures & Uses	R	R	R	R	R	§ 4.20.020
Restaurants & Bars	A	A	–	A	A	

Table 2.40-1

**USES IN COMMERCIAL AND INDUSTRIAL
BASE DISTRICTS**

- R** Permitted by Right
- S** Special Permit (Ch 5.60)
- A** ASA (Ch 5.40)
- U** Use Permit/ASA (Ch 5.65, 5.40)
- Not Permitted

USE CLASSIFICATIONS	ZONING					Supplemental Regulations
	CN	CG	OA	ML	MH	
Retail Sales & Services						
Local-Serving	A	A	–	–	–	
General	A	A	–	A	A	
Outdoor Sales & Storage	–	U	–	A	A	
Schools	U	U	U	U	U	
Studios, Arts & Crafts	A	A	–	A	A	
Taxidermy	–	–	–	A	A	
Theaters	–	U	–	U	–	
Truck & Railroad Terminals	–	–	–	A	A	
Truck Sales & Services						
Repair	–	–	–	A	A	
Sales	–	–	–	A	A	
Storage	–	–	–	A	A	
Utilities and Public Facilities						Note 7
Minor	A	A	A	A	A	
Major	U	U	U	U	U	
Warehousing & Storage						
Indoor	–	–	–	A	A	
Outdoor	–	–	–	A	A	
Wholesaling & Distribution	–	–	–	A	A	
Wireless Telecommunication Facilities						
Co-location	A	A	A	A	A	§ 4.10.400, Note 8
Minor	A	A	A	A	A	§ 4.10.400
Major	U	U	U	U	U	§ 4.10.400

NOTES:

1. In CG districts, limited auto rental establishments, including a business office and not more than 10 cars (stock) on site at any time, are not subject to a use permit, only ASA.

2. Facilities qualifying as “Large-Family Day-Care Homes,” serving between 7 and 14 children, are subject to an administrative permit, per the provisions of Division B24 of the County Ordinance Code.
3. Massage establishments shall comply with the provisions of Division B22 of the County Ordinance Code.
4. [Reserved]
5. Commercial/residential mixed uses are permitted in CN and CG districts subject to use permit and ASA.
6. Expansion or replacement of legal-nonconforming residence in ML and MH districts subject to use permit, per § 4.50.060.
7. Utility structures and facilities may be exempt from local zoning regulations if they are established by a government agency. There may also be federal or state laws that provide exemptions for certain types of utilities.
8. Co-location of wireless telecommunication facilities may be eligible for an ASA administrative review and approval (§ 5.40.050), where consistent with the provisions of this ordinance. Where the proposed co-location meets the criteria in Government Code § 65850.6(b) relating to previously approved facilities permitted by a means of a discretionary permit issued on or after January 1, 2007, and either a negative declaration, mitigated negative declaration, or environmental impact report was prepared and adopted, the co-location shall be reviewed for consistency with the approved plans, mitigation requirements, and conditions imposed on the existing facility, and if found consistent, will be subject only to a building permit or other applicable permits required by Title C of the County Ordinance Code.
9. Established *Religious Institutions* and *Nonprofit Institutions* may include *Emergency Shelters: Small-Scale* as an ancillary use by right.

SECTION 4: The following new Section 4.10.025 is hereby added to Chapter 4.10, Article 4 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code:

§ 4.10.025 Agriculture: Urban

This section applies to uses classified as *Agriculture: Urban* in § 2.10.040. Uses classified as *Agriculture: Urban* shall be subject to all of the following:

- A. **Structures.** Structures supporting urban agriculture shall conform to § 4.20.020 for accessory structures; provided, however, that portable and temporary shelter structures, including hoop-houses, greenhouses and modular units, may be placed anywhere outside of the front-yard setback required by the applicable zoning regulations for principal buildings (see tables 2.30-3 and 2.40-2).
- B. **Fences.** Notwithstanding the limitations on fences in urban residential districts in § 4.20.020, a fence taller than three (3) feet, but not taller than six (6) feet in height may be erected within the front 20 feet of the lot, or within any portion of a lot where a three (3)-foot height limitation may otherwise be applicable. Such front-

yard fence shall have a “substantially open” composition, where not more than 25% of the vertical surface plane is solid when viewed perpendicular to the fence. Such front-yard fence shall be removed immediately upon the cessation of the urban agriculture use.

C. On-Site Sales. On-site sales of agricultural products shall be allowed, subject to all of the following:

1. Only agricultural products, including value-added products, grown and produced on the site shall be sold.
2. Sales shall be limited to not more than two (2) days per week in R1, R1E, RHS, R1S, R3S, R2, and R3 districts. Not more than one (1) of the two (2) days may be a weekend day.
3. A stand or other structure may be used for product sales. In R1, R1E, RHS, R1S, R3S, R2, and R3 districts, such stand or structure shall be portable, and shall be dismantled or removed during non-operating hours.

D. Composting, Refuse Storage. Compost bins and refuse containers shall be located no closer than five (5) feet to any property line. Composting activity and refuse storage shall be designed and operated to discourage rodents and pest insects.

E. Signs. On-site signs may be installed to provide identification, information and directions relating to the urban agriculture operation. No sign shall be larger than eight (8) square feet in area, nor taller than 12 feet in height.

F. Pesticides. Pesticide use shall be subject to applicable federal and state regulations, and may require permits from the County Division of Agriculture.

SECTION 5: Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof, other than the section so declared to be unconstitutional or invalid.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

Dave Cortese, President
Board of Supervisors

ATTEST:

Megan Doyle
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Elizabeth G. Pianca
Deputy County Counsel

redline

Attachment: NS-1200.352 Redline (78240 : Ordinance NS-1200.352: UAIZ Zoning Revisions)

County of Santa Clara
Department of Planning and Development



8.c

78229

DATE: September 29, 2015

TO: Board of Supervisors

FROM: Kirk Girard, Director, Dept. of Planning and Development

SUBJECT: Ordinance NS-1203.123: UAIZ Program

RECOMMENDED ACTION

Adopt Ordinance No. NS-1203.123 adding a new Division 21 to Title C of the Ordinance Code of the County of Santa Clara relating to urban agriculture incentive zones. (Roll Call Vote)

Refer to Legislative File 77963.

LINKS:

- Created: 77963 : Public hearing to consider program to implement Assembly Bill (AB) 551, the Urban Agriculture Incentive Zones Act.

ATTACHMENTS:

- Ordinance NS-1203.123 (PDF)

ORDINANCE NO. NS-1203.123

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA ADDING A NEW DIVISION 21 TO TITLE C
OF THE ORDINANCE CODE OF THE COUNTY OF SANTA CLARA RELATING TO
URBAN AGRICULTURE INCENTIVE ZONES**

Summary

This Ordinance adds a new Division 21 to Title C of the Ordinance Code of the County of Santa Clara relating to Urban Agriculture Incentive Zones.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1. Title C of the Ordinance Code of the County of Santa Clara is amended to add Division 21 to read as follows:

Division 21—URBAN AGRICULTURE INCENTIVE ZONES

Chapter 1. Urban Agriculture Incentive Zones Act Contracts

Sec. C21-1. -Purpose and authority.

This chapter sets forth the requirement for county urban agriculture incentive zones and contracts pursuant to the Urban Agriculture Incentive Zones Act (“Act”), Government Code § 51200 *et seq.* The Act authorizes the County to establish an Urban Agriculture Incentive Zone within its boundaries for the purpose of entering into enforceable contracts with landowners, on a voluntary basis, for the use of vacant, unimproved, or blighted lands for small-scale agricultural use. In consideration for promoting sustainable urban farm enterprise sectors in unincorporated urban areas, which promotes the public interest, the County 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.

Sec. C21-2. -Definitions.

The following definitions apply to this chapter:

(a) All definitions in the Act, including but not limited to those in Government Code § 51040.3.

(b) *Contract* means an urban agriculture incentive zone contract entered into pursuant to the Act and this chapter.

(c) *Contracted land* means real property restricted by an urban agriculture incentive zone contract pursuant to the Act and this chapter.

(d) *Eligible property* means a privately owned parcel not exempt from property taxation and (i) located in the established Urban Agriculture Incentive Zone; (ii) is at least 0.10 acres and not more than three acres in size; (iii) does not include any dwellings; and, (iv) includes only structures that are accessory to the agricultural activity, including but not limited to, toolsheds, greenhouses, produce stands, and instructional space and consistent with the Zoning Ordinance.

Sec. C21-3. -Relationship to other laws.

If there are any irreconcilable conflict between any provision of this chapter and any federal or state law, the federal or state law prevails. Any provision of this chapter that is more stringent than federal or state law is intended to supplement, not conflict with, federal or state law and to apply unless a court of law conclusively determines that the provision is preempted.

Sec. C21-4. -Establishment of Urban Agriculture Incentive Zone.

An Urban Agriculture Incentive Zone is hereby established in accordance with the Act for those areas identified in a resolution adopted by the Board of Supervisors, provided, however, that the areas of the Urban Agriculture Incentive Zone within any portion of the spheres of influence of a city shall not be established without the consent of the city.

Sec. C21-5. -Applications for Contracts.

(a) A landowner of an eligible property may file an application for a contract with the Agricultural Commissioner on a form prepared by the County. An application must be accompanied by all of the following:

- (1) All applicable fees as established by resolution of the Board of Supervisors; and
- (2) A completed contract in a form prepared by County Counsel with notarized signatures of all land owners and all required attachments.

(b) The County may request additional information from the landowner during the application review process to facilitate a thorough and timely review of the application.

(c) The deadline to submit an application for a contract shall be November 1 of each calendar year.

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Sec. C21-6. -Referral by Agricultural Commissioner.

(a) Upon receipt of an application for a contract, the Agricultural Commissioner shall transmit a copy of the completed application to the Office of the Assessor and the Planning Office.

(b) Within 60 days of receiving a complete application, the Agricultural Commissioner will prepare a report. The Office of the Assessor and Planning Office will provide the Agricultural Commissioner with any relevant information to assist with the preparation of the report. The report will contain an analysis of whether the land meets the criteria for a contract in the Act, this chapter, and any other local ordinance and guidelines.

Sec. C21-7. -Criteria for evaluating contract applications and appeal.

(a) No application for a contract will be approved unless all of the following criteria are met:

- (1) The eligible property proposed for inclusion in the contract is at least 0.10 acres and not more than three acres.
- (2) The eligible property proposed for inclusion in the contract shall be dedicated toward commercial or noncommercial agricultural use, consistent with the intent of the Act.
- (3) There are no existing or permitted uses or development, including any dwelling, on the eligible property that would significantly displace or interfere with the agricultural use of the land.

(b) Any interested person may appeal the determination of the Agricultural Commissioner made pursuant to this section to the Board of Supervisors. Any such appeal must be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.

Sec. C21-8. -Recording of contracts.

The Agricultural Commissioner shall execute the contract on behalf of the County. The Agricultural Commissioner must record any executed contract with the Clerk-Recorder within 20 days after the County executes the contract and no later than December 31 of the calendar year in which it was executed.

Sec. C21-9. -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 of the contract, the Agricultural Commissioner shall conduct an annual site inspection to verify the property owner's conformance to the terms of the contract. The Agricultural Commissioner shall give the landowner at least 48 hours' written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the Agricultural Commissioner shall make a reasonable attempt to accommodate the landowner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 am to 5:00 pm).

(c) The Agricultural Commissioner's determination of conformance with the contract shall be based on a demonstration of:

- (1) Conformance with the definition of urban agriculture pursuant to California Government Code section 51040.3(c);
- (2) Entire property dedicated to agricultural use;
- (3) 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
- (4) Any specific requirements of the contract.

Sec. C21-10. -Contract cancellation.

(a) If the County finds that a landowner is in material breach of the terms of the contract, the County shall notify the landowner of his or her intent to cancel the contract. The landowner may file a written appeal of this determination with the Agricultural Commissioner within 15 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 15 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 landowner and shall record a notice of cancellation of the contract with the Clerk-Recorder.

(c) A landowner 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). The landowner shall record a notice of cancellation with the Clerk-Recorder.

(d) Upon cancellation of any contract prior to the expiration of its term, the landowner shall pay to the Tax Collector a cancellation fee equal to the cumulative value of the tax benefit received during the duration of the contract upon landowner for cancellation of any

contract prior to the expiration of the contract. This fee shall include the cumulative tax owed, including interest. The landowner 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 County; 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 landowner's submittal of written notification of cancellation under subsection (c) 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. C21-11. -Contract extension.

(a) Each year, but no later than October 15, the Agricultural Commissioner or designee shall send each landowner with a contract a request for confirmation that the landowner intends to continue complying with the contract; documentation of any major modification 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 landowner to apply for an extension of the contract for an additional term of up to five years, subject to the limitations provided in Section C21-12. Any such extension shall be subject to the same requirements as an initial application.

Sec. C21-12. -Sunset provision.

Pursuant to the Act, the County shall not enter into a new contract or extend an existing contract after January 1, 2019, unless the Act is amended to permit contracts after that date. Notwithstanding the foregoing, any contract entered into pursuant to the Act and this Division 21, Chapter 1 on or before January 1, 2019, shall be valid and enforceable for the duration of the contract.

Sec. C21-13. -Fees.

The Board of Supervisors may adopt by resolution any fees necessary to ensure that the County recovers its costs associated with administering and enforcing the Act and contracts executed thereunder. Such fees shall not exceed the amount reasonably necessary to recover the cost of providing the product or service or the cost of enforcing any law or ordinance for which the fee is levied. The fee may reflect the average cost of providing any product or service or enforcing any law or ordinance.

SECTION 2. The provisions of Division C21 shall be effective November 28, 2015.

SECTION 3. This Ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof, other than the section so declared to be unconstitutional or invalid.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

DAVE CORTESE, President
Board of Supervisors

ATTEST:

MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



MICHAEL L. ROSSI
Deputy County Counsel

County of Santa Clara
Department of Planning and Development



8.d

78242

DATE: September 29, 2015

TO: Board of Supervisors

FROM: Kirk Girard, Director, Dept. of Planning and Development

SUBJECT: Resolution Establishing Urban Agriculture Incentive Zones

RECOMMENDED ACTION

Adopt Resolution establishing urban agriculture incentive zones within certain unincorporated areas of Santa Clara County consistent with the Urban Agriculture Incentive Zones Act, AB 551, and Ordinance NS-1203.123. (Roll Call Vote)

Refer to Legislative File 77963.

LINKS:

- Created: 77963 : Public hearing to consider program to implement Assembly Bill (AB) 551, the Urban Agriculture Incentive Zones Act.

ATTACHMENTS:

- UAIZ Resolution (PDF)

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ESTABLISHING AN URBAN AGRICULTURE INCENTIVE ZONE WITHIN CERTAIN AREAS OF UNINCORPORATED SANTA CLARA COUNTY CONSISTENT WITH THE URBAN AGRICULTURE INCENTIVE ZONES ACT (ASSEMBLY BILL 551) AND ORDINANCE NS-1203.123

WHEREAS, the Urban Agriculture Incentive Zones Act (AB 551) is intended to promote small-scale agriculture on vacant, unimproved or blighted lands in urban areas;

WHEREAS, AB 551 authorizes, under specified conditions and until January 1, 2019, a city, county, or city and county and a landowner to enter into a contract to enforceably restrict the use of vacant, unimproved, or otherwise blighted lands for small-scale production of agricultural crops and animal husbandry in urban areas, provided the contract is for a term of no less than 5 years and the property is at least 0.10 acres in size;

WHEREAS, a city may establish by ordinance an Urban Agriculture Incentive Zone (UAIZ) after approval from the board of supervisors of the county in which the city is located;

WHEREAS, on June 9, 2015, the Board of Supervisors of the County of Santa Clara adopted Resolution No. BOS-2015-86 approving the establishment of Urban Agriculture Incentive Zones consistent with the requirements of AB 551 for cities within Santa Clara County;

WHEREAS, under AB 511 the County must not establish a UAIZ within any portion of the spheres of influence of a city unless the legislative body of the city has consented to the establishment of the UAIZ;

WHEREAS, many of the lands in unincorporated County that are potentially eligible to qualify for a contract under AB 511 are located within the spheres of influence of a city;

WHEREAS, County Ordinance NS-1203.123, adding a new Division 21 to Title C of the Ordinance Code and establishing a UAIZ program for the County, calls for the establishment of the UAIZ by resolution of the Board of Supervisors, provided, however, that the areas of the UAIZ within any portion of the spheres of influence of a city shall not be established without the consent of the city; and,

WHEREAS, Exhibit A—Urban Agriculture Incentive Zones: Unincorporated Santa Clara County, attached hereto and incorporated herein, identifies those areas of unincorporated County qualifying as a UAIZ.

Resolution No.
Establishing UAIZ within
Unincorporated County of
Santa Clara

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____, 2015, by the following vote:


AYES:
NOES:
ABSENT:
ABSTAIN:

DAVE CORTESE, President
Board of Supervisors

ATTEST:

MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



ELIZABETH G. PIANCA
Deputy County Counsel

Exhibit to this Resolution—

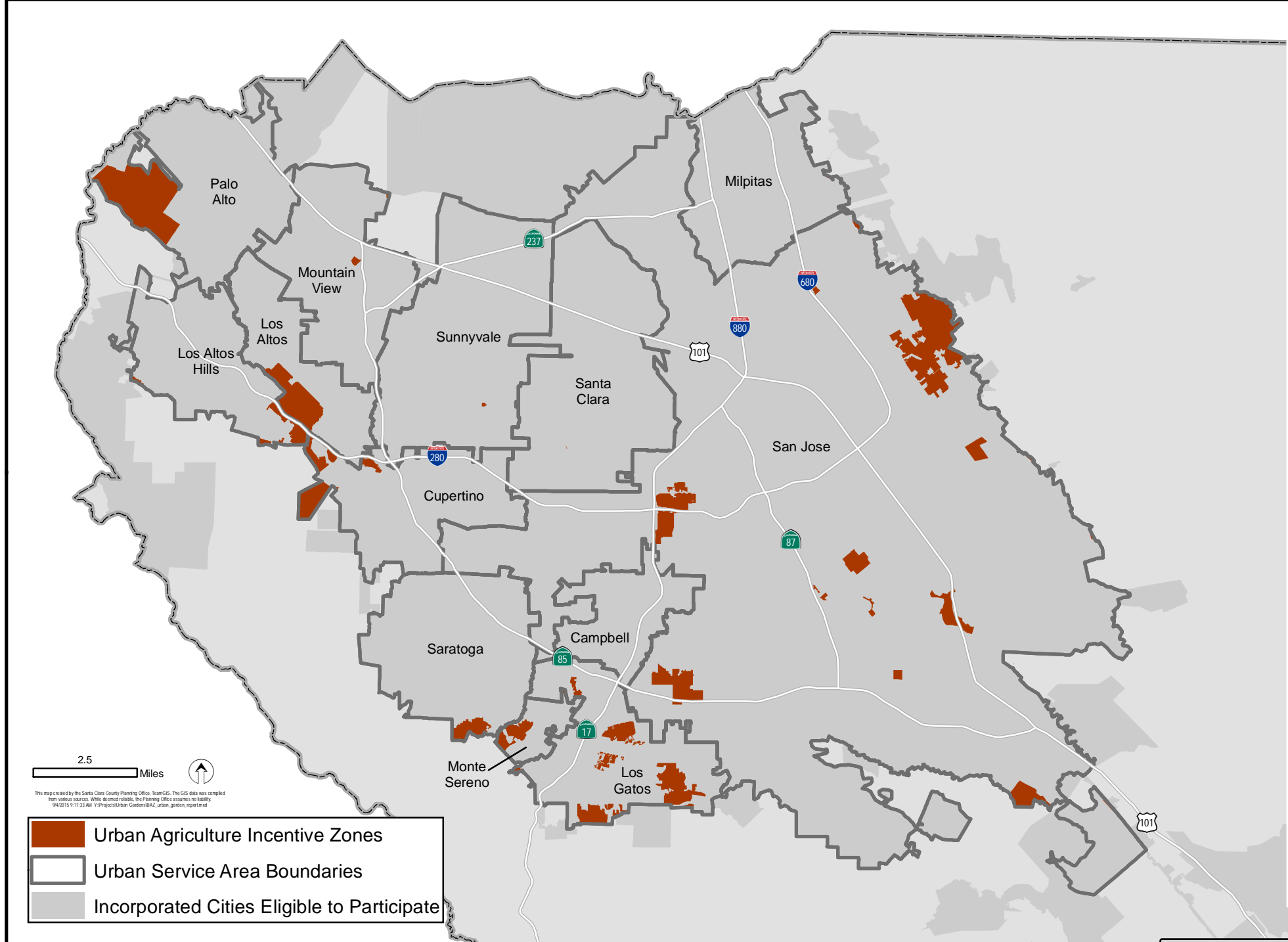
A—Urban Agriculture Incentive Zones: Unincorporated Santa Clara County

Resolution No.
Establishing UAIZ within
Unincorporated County of
Santa Clara

Urban Agriculture Incentive Zones: Unincorporated Santa Clara County

EXHIBIT A

Urban Agriculture Incentive Zones: Unincorporated Santa Clara County



Attachment: UAIZ Resolution (78242 : Resolution Establishing Urban Agriculture Incentive Zones)

County of Santa Clara
Department of Planning and Development



8.e

78255

DATE: September 29, 2015
TO: Board of Supervisors
FROM: Kirk Girard, Director, Dept. of Planning and Development
SUBJECT: Fee Resolution: UAIZ Program

RECOMMENDED ACTION

Adopt Resolution establishing fees for services provided by the County of Santa Clara related to the urban agriculture incentive zones ordinance and program. (Roll Call Vote)

Refer to Legislative File 77963.

LINKS:

- **Linked To:** 77963 : Public hearing to consider program to implement Assembly Bill (AB) 551, the Urban Agriculture Incentive Zones Act.

ATTACHMENTS:

- UAIZ Program Fee Resolution (PDF)

RESOLUTION NO.

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ESTABLISHING FEES FOR SERVICES PROVIDED BY THE COUNTY OF SANTA CLARA RELATED TO THE URBAN AGRICULTURE INCENTIVE ZONES ORDINANCE AND PROGRAM

WHEREAS, the Urban Agriculture Incentive Zones Act (AB 551) is intended to promote small-scale agriculture on vacant, unimproved or blighted lands in urban areas;

WHEREAS, AB 551 authorizes, under specified conditions and until January 1, 2019, a city, county, or city and county and a landowner to enter into a contract to enforceably restrict the use of vacant, unimproved, or otherwise blighted lands for small-scale production of agricultural crops and animal husbandry in urban areas, provided the contract is for a term of no less than 5 years and the property is at least 0.10 acres and not more than 3.0 acres in size;

WHEREAS, County Ordinance NS-1203.123, adding a new Division 21 to Title C of the Ordinance Code, establishes an Urban Agriculture Incentives Zones (“UAIZ”) program for the County;

WHEREAS, AB 511 (California Government Code Section 51042(a)(2)(A)) authorizes the County to impose a fee upon contracting landowners for the reasonable costs of implementing and administering contracts, and County Ordinance NS-1203.123 authorizes the Board of Supervisors to adopt a resolution establishing fees to ensure that the County recovers its costs;

WHEREAS, it is necessary to adopt a fee schedule to accurately reflect the fees for implementing and administering the UAIZ program;

WHEREAS, County staff calculated new UAIZ program-related fees and costs, as depicted in Attachment A;

WHEREAS, the methodology employed in the analysis for the estimated reasonable fees and costs depicted in Attachment A were reviewed and approved by the Controller-Treasurer Department for purposes of this Resolution;

WHEREAS, notice of the time and place of the September 29, 2015 hearing of the Board of Supervisors, a general explanation of the subject matter to be considered, and a statement that the required data is available for public review, was provided in compliance with applicable law;

WHEREAS, at least 10 days prior to the public meeting, data was made available to the public indicating the amount of costs, or estimated costs reasonably necessary to provide the services for which the fees are levied;

Resolution No.
Resolution Adopting Fees
for UAIZ Program

WHEREAS, based upon the oral and written data presented, the Board of Supervisors finds the costs depicted in Attachment A do not exceed the estimated reasonable costs to provide the service for which each of the fees is levied;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Santa Clara, State of California, that the estimated reasonable costs and fees for services depicted in Attachment A hereto are hereby adopted and shall take effect November 28, 2015.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____ by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

DAVE CORTESE, President
Board of Supervisors

ATTEST:

MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



MICHAEL L. ROSSI
Deputy County Counsel

Attachment to this Resolution: A—UAIZ Fees

Resolution No.
Resolution Adopting Fees
for UAIZ Program

Attachment: UAIZ Program Fee Resolution (78255 : Fee Resolution: UAIZ Program)

ATTACHMENT A

URBAN AGRICULTURE INCENTIVE ZONE (UAIZ) PROGRAM FEES

UAIZ Application Fee \$50

Annual Inspection Fee for UAIZ Actual Cost for Time and Mileage

Attachment: UAIZ Program Fee Resolution (78255 : Fee Resolution: UAIZ Program)

Resolution No.
Resolution Adopting Fees
for UAIZ Program