



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

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Fifth District

DATE: February 26, 2020 and March 11, 2020

01

TO: Board of Supervisors

SUBJECT

ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

OVERVIEW

In 2013, Assembly Bill 551 (AB 551) authorized a statewide tax reduction incentive program for local governments to encourage use of properties for urban agriculture through the establishment of Urban Agriculture Incentive Zones (UAIZ). On November 14, 2018 (03) the Board of Supervisors (Board) directed the Chief Administrative Officer to establish a UAIZ program, prepare a detailed assessment of blighted properties, analyze the appropriate fee structure, and complete any necessary analysis required by the California Environmental Quality Act (CEQA). Establishing a UAIZ program aligns with *Board Policy I-133 - Support and Encouragement of Farming in San Diego County*, because increasing urban farming opportunities supports local businesses and increases community access to healthy foods. In exchange for a tax reduction, eligible landowners can enter into a UAIZ contract with the County of San Diego (County) to fully dedicate their parcel to agricultural use for a minimum of five years. Parcels must be between 0.1 and 3.0 acres, be vacant or contain only non-residential structures, and be located within unincorporated Census-designated urbanized areas of 250,000 people or more.

Today's request is to establish a UAIZ program through adoption of an ordinance, establishment of an application fee, and consideration of application fee waivers. The recommended actions require two steps. On February 26, 2020, it is requested that the Board find that the action is exempt from CEQA and introduce both the UAIZ ordinance and ordinance amending the Planning & Development Fee Schedule into the County Code of Administrative Ordinances (first reading). To encourage program participation, the Board may choose to waive *Board Policy B-29 – Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery* and adopt a fee waiver resolution to waive the application fee. Due to previous statewide participation rates, staff anticipates less than 50 applications over the life of the State program. If the Board takes the actions recommended for February 26, 2020, then on March 11, 2020, it is requested that the Board consider and adopt the two ordinances (second reading). If application fee waivers are approved by the Board, the UAIZ program fee waivers may result in costs of up to \$63,200, depending on program participation, and would be funded by available prior year General Fund fund balance budgeted in the Department of Planning & Development Services.

SUBJECT: ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed Urban Agriculture Incentive Zones (UAIZ) Ordinance complies with the California Environmental Quality Act (CEQA) and County of San Diego CEQA Guidelines because the ordinance is exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines (Attachment A, on file with the Clerk of the Board).
2. Introduce and waive further reading for the attached Form of Ordinance entitled: AN ORDINANCE ENACTING SECTION 88.20 OF ARTICLE IV-A ASSESSOR/RECORDER/COUNTY CLERK OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO THE URBAN AGRICULTURE INCENTIVE ZONES ORDINANCE (Attachment B, on file with the Clerk of the Board).
3. Introduce and waive further reading for the attached Form of Ordinance entitled: AN ORDINANCE AMENDING SECTION 362.1 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES FEE SCHEDULE (Attachment C, on file with the Clerk of the Board).

Provide direction on the waiver of fees for up to 50 UAIZ applications at an unrecovered cost of up to \$63,200. If the Board directs application fee waivers, the Board shall adopt the following:

4. Waive Board Policy B-29 – Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery for application fees for the UAIZ program until existing funds are depleted or the UAIZ program sunsets at the State level, whichever is soonest.
5. Adopt a resolution entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES TO WAIVE UAIZ APPLICATION FEES ON A TEMPORARY BASIS (Attachment D, on file with the Clerk of the Board).

If on February 26, 2020, the Board takes recommended action related to the introduction of the UAIZ and Fee Schedule Amendment Ordinances, then on March 11, 2020:

1. Consider and adopt the UAIZ Ordinance (second reading): AN ORDINANCE ENACTING SECTION 88.20 OF ARTICLE IV-A ASSESSOR/RECORDER/COUNTY CLERK OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO THE URBAN AGRICULTURE INCENTIVE ZONES ORDINANCE
2. Consider and adopt the attached Form of Ordinance entitled (second reading): AN ORDINANCE AMENDING SECTION 362.1 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES FEE SCHEDULE

SUBJECT: ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

FISCAL IMPACT

Funds for this request are included in the Fiscal Year (FY) 2019-20 Operational Plan in the Department of Planning & Development Services (PDS). If approved this request will result in costs and revenues of up to \$63,200 for application processing and contract execution. The funding source is fees paid by applicants. There will be no change in net General Fund cost and no additional staff years.

If approved, the Urban Agriculture Incentive Zones (UAIZ) program may result in a potential loss of property tax revenue to the County of San Diego (County) and affecting taxing entities, depending on program participation. Staff conducted an analysis of potential property tax loss, which indicates 4,165 parcels in the unincorporated area may be eligible to participate. If every eligible parcel participated, the estimated tax loss would be approximately \$5.8 million annually to all taxing agencies. The UAIZ program proposes a \$250,000 cap on property tax loss annually. A total of 180 potentially eligible parcels receiving an average annual tax reduction of \$1,391 could participate in the UAIZ program before reaching the \$250,000 cap. A \$250,000 program cap equates to \$41,280 in annual tax revenue loss for the County and \$208,720 annual loss for other taxing agencies.

To encourage participation, staff has included as an option, a recommendation for the waiver of permit application fees. If the Board of Supervisors (Board) directs the waiver of permit application fees, funds for this request are included in the FY 2019-20 Operational Plan in PDS. If approved, the application fee waiver program may result in costs of up to \$63,200 to the County of San Diego beginning as early as Fiscal Year 2019-20. These funds will offset application fees for up to 50 properties that opt to participate in the UAIZ program. A waiver of Board Policy B-29 is required for unrecovered costs of \$63,200 as a result of the proposed application fee waivers. The funding source is available prior year General Fund fund balance budgeted in PDS. These funds will remain available for UAIZ application fee waivers until depleted or until the UAIZ program sunsets at the State level, whichever occurs first. There will be no additional staff years. Should program participation exceed the anticipated level, staff will return to the Board to request additional funding.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

Staff presented the proposed Urban Agriculture Incentive Zone Project to the chairs of the Community Planning and Sponsor Groups on November 16, 2019. The draft ordinance was posted for public review December 20, 2019 to January 31, 2020. On January 9, 2020, the Ramona Community Planning Group voted 12-0-0-3 in support of the County of San Diego establishing a UAIZ Program within the unincorporated area. No other Community Planning or Sponsor Groups took action on the item.

BACKGROUND

In 2013, California Assembly Bill 551 (AB 551) established the Urban Agriculture Incentive Zone (UAIZ) Act, which authorizes counties and cities to establish UAIZs. AB 551 allows the County

SUBJECT: ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

of San Diego (County) and a landowner to enter into a contract (Attachment E) to restrict the use of vacant, unimproved, or otherwise blighted lands for small-scale production of agricultural crops and animal husbandry. Under a UAIZ contract, tax liabilities are reduced for parcels dedicated to agricultural use, resulting in a tax benefit for landowners. AB 551 defined criteria for participation including parcel size limitations, location within an eligible Census-designated urban area, prohibition of dwelling units on the property, a minimum five-year contract requirement, and a provision for repayment of benefits received if canceled.

The San Diego County Board of Supervisors (Board) has provided direction related to UAIZs over the past several years. On November 18, 2015 (04), the Board directed the Chief Administrative Officer (CAO) to create a framework and criteria for evaluating proposals to establish UAIZs within the incorporated and unincorporated areas of the county. On February 18, 2016, the Finance & Government Group Deputy Chief Administrative Officer/Auditor & Controller provided a memo to the Board addressing the framework criteria for the incorporated cities. The criteria were sent to the cities on March 10, 2016, and indicated that cities may, after a public hearing and approval by the Board, establish a UAIZ Ordinance within their jurisdictional boundaries. On June 7, 2016 Planning & Development Services (PDS) provided a memo to the Board outlining the feasibility, criteria, eligibility, administrative cost and potential property tax revenue loss to the County if an unincorporated UAIZ program were established. On October 10, 2017 (14) and May 15, 2018 (17) the Board adopted resolutions authorizing a UAIZ program within the cities of San Diego and Chula Vista. On November 14, 2018 (03) the Board directed the CAO to establish a UAIZ program within the unincorporated areas of San Diego county by: 1) preparation of a draft ordinance; 2) a detailed assessment of blighted properties; 3) analyzing the appropriate fee structure; and 4) completing any associated analysis required by the California Environmental Quality Act.

Program Description

To qualify, landowners must fully dedicate their parcel to agricultural use for the duration of a UAIZ contract of no less than five years. The application process begins with completion of a form and submittal to PDS. Upon receiving the application, PDS will confirm eligibility. The parcel must be: 1) located within Census-designated urbanized area; 2) between 0.1 and 3.0 acres in size; and 3) vacant or contain only non-residential structures that can be fully dedicated to agriculture. As a part of the application process, PDS will confirm that the proposed uses are consistent with zoning requirements and the landowner has obtained any necessary permits. Additional site analysis and permitting may be required including grading, clearing, and building permits in compliance with applicable County and State requirements including California Environmental Quality Act (CEQA), prior to completing a UAIZ application process.

Eligible applicants will submit a description and drawing of proposed agricultural use activities, major site features, and utilities demonstrating the full use of the site for agriculture. Next, a contract will be drafted, signed, presented to the PDS Director for approval, and transmitted by the applicant to the County Clerk for recordation. Once recorded, the County will annually reevaluate the property value through reassessment in accordance California State Board of Equalization's average per-acre value of irrigated cropland in California derived from the United States Department of Agriculture's National Agricultural Statistics Service. Establishment of a UAIZ in

SUBJECT: ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

any area that is currently, or in the last three years has been, subject to a Williamson Act contract is prohibited. In areas where a city’s general plan includes unincorporated area for future growth/development via a sphere of influence, establishment of a UAIZ will require a city’s governing body approval prior to contract execution.

The County will enforce contracts through code compliance. The ordinance includes a provision to obligate landowners that do not comply with the contract to pay the Treasurer-Tax Collector a cancellation fee equal to the cumulative value of the tax benefit received during the duration of the contract. The PDS Director may waive the cancellation fee if a determination is made that the cancellation was caused by extenuating circumstances despite the good faith effort by the landowner. Pursuant to AB 465, the County may consider UAIZ contracts through January 1, 2029. The program will sunset at that time, unless it is extended by the State.

PROJECT ANALYSIS

Planning & Development Services collected data from other jurisdictions and assessed their Urban Agriculture Incentive Zones (UAIZ) application, contract requirements, and participation rates. Statewide, there are currently eight cities and two counties with UAIZ programs, including the Cities of Chula Vista and San Diego, and 15 active UAIZ parcels under contract. Statewide participation rates are low, which generally reflects the low benefit of reduced taxes versus the landowner’s costs including application and contract processing costs, insurance requirements, and opportunity costs of restricting property use for at least five years.

UAIZ Application Fee Options

The estimated cost to process a UAIZ application and complete a contract is \$1,264 per property based on staff rates and current charges. Assessment of this application fee would result in full cost recovery to the County. Research of other jurisdictions with UAIZ programs indicates a range of application fee amounts; from \$0 in the City and County of San Francisco to \$535 in the County of Los Angeles. In many cases, these application fees are not resulting in full cost recovery to the jurisdiction in which the program is being implemented. To provide greater incentive and encourage program participation, the Board of Supervisors could choose to waive *Board Policy B-29 – Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery* and the application fees. If the application fees are waived, staff recommends a waiver for up to 50 applications at an approximate cost of up to \$63,200. Due to historic statewide participation rates, staff anticipates less than 50 applications over the life of the State program. The funding source is available prior year General Fund fund balance budgeted to PDS and funds would remain available until depleted.

Property Tax Revenue Loss

Staff evaluated potential tax revenue loss to the County and other taxing agencies (e.g. school, fire, health, water and sewer districts) by considering eligibility throughout the unincorporated area and applying various potential participation rates. To estimate the potential revenue loss, staff first evaluated the number of potentially eligible parcels in the unincorporated area using Geographic Information System and Census data. This analysis includes an assessment of potentially blighted parcels by including non-vacant parcels, with non-residential structures less than 2,000 square feet

SUBJECT: ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

in size. The evaluation indicates that there are 4,165 potentially eligible parcels in the unincorporated area, totaling 3,618 acres (Attachment F).

To determine total property tax revenue loss, the 2019 tax roll for the 4,165 parcels was compared to hypothetical re-assessed values based on the 2019 California annual average per acre value of irrigated cropland (\$13,800). The California annual average per acre value of irrigated cropland for 2020 is \$15,100. Table 1 below summarizes the potential revenue loss using various participation percentages, along with a \$250,000 program cap scenario. Staff is proposing a \$250,000 annual maximum property tax loss to affected taxing agencies (program cap) like that of other jurisdictions (e.g. City of San Francisco and City of San Jose). A \$250,000 program cap equates to participation of approximately 180 parcels at an annual tax revenue loss of \$41,280 to the County and \$208,720 for other taxing agencies. This program cap is above the participation rates seen statewide, therefore it is unlikely that it will be reached. However, a cap limits risk to the County and other taxing agencies.

Table 1 – Total Property Tax Revenue Loss Percent by Ranges of Potential UAIZ Enrollment Estimate for Fiscal Year 2019-20

Taxing Agencies		Rates of UAIZ Participation (Percent)					
Agency Type	% Tax	0.25%	1.0%	2.0%	4.0%	4.3%	100%
Cemetery Districts	.0311%	(\$5)	(\$18)	(\$36)	(\$72)	(\$78)	(\$1,803)
Community College Districts	7.42%	(\$1,075)	(\$4,301)	(\$8,602)	(\$17,204)	(\$18,560)	(\$430,110)
County of San Diego	16.5%	(\$2,392)	(\$9,567)	(\$19,123)	(\$38,266)	(\$41,280)	(\$956,653)
Fire Districts	10.5%	(\$1,528)	(\$6,110)	(\$12,220)	(\$24,440)	(\$26,365)	(\$611,008)
Health Districts	1.17%	(\$169)	(\$678)	(\$1,356)	(\$2,712)	(\$2,925)	(\$67,794)
Miscellaneous	3.20%	(\$464)	(\$1,856)	(\$3,712)	(\$7,423)	(\$8,008)	(\$185,578)
School Districts	47.8%	(\$6,931)	(\$27,723)	(\$55,445)	(\$110,890)	(\$119,624)	(\$2,772,252)
Water and Sewer Districts	2.22%	(\$321)	(\$1,284)	(\$2,568)	(\$5,136)	(\$5,541)	(\$128,409)
Debt Service	11%	(\$1,600)	(\$6,401)	(\$12,801)	(\$25,602)	(\$27,619)	(\$640,060)
Total	100%	(\$14,484)	(\$57,937)	(\$115,873)	(\$231,747)	(\$250,000)	(\$5,793,667)
Parcels		10	42	83	167	180	4,165

ENVIRONMENTAL STATEMENT

It is recommended that the Board of Supervisors find that the proposed Urban Agriculture Incentive Zones (UAIZ) Ordinance is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines because the proposed UAIZ Ordinance creates a tax incentive for landowners to promote urban agriculture on small vacant or unimproved parcels where agriculture is currently allowed (Attachment A). This procedural change does not eliminate the need for projects to address and mitigate applicable project impacts. Therefore, it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today’s proposed actions support the Sustainable Environments/Thriving Strategic Initiative in the County of San Diego’s 2020-2025 Strategic Plan by promoting sustainability and agriculture through a tax benefit for property owners with small-scale urban agriculture. Today’s proposed

SUBJECT: ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

actions also support the *Live Well San Diego* Food System Initiative by promoting urban agriculture and potentially increasing food production and access. Furthermore, an increase in urban agriculture and community gardens fosters a physical environment where residents can gather and engage in recreational urban gardening.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer

ATTACHMENT(S)

- Attachment A Environmental Documentation
- Attachment B AN ORDINANCE ENACTING SECTION 88.20 OF ARTICLE IV-A ASSESSOR/RECORDER/COUNTY CLERK OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO THE URBAN AGRICULTURE INCENTIVE ZONES ORDINANCE
- Attachment C AN ORDINANCE AMENDING SECTION 362.1 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES FEE SCHEDULE
- Attachment D A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES TO WAIVE UAIZ APPLICATION FEES ON A TEMPORARY BASIS
- Attachment E Sample Contract
- Attachment F Eligible Properties Map and Table
- Attachment G Fiscal Impact Letter to Taxing Agencies

SUBJECT: ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:

November 14, 2018 (03), directed the Chief Administrative Officer (CAO) to establish an Urban Agriculture Incentive Zones (UAIZ) Ordinance, prepare a detailed assessment of eligible properties, analyze the appropriate fee structure, and to complete any necessary analysis required by the California Environmental Quality Act; May 15, 2018 (17), adopted a resolution regarding UAIZ in the City of Chula Vista; October 10, 2017 (14), adopted a resolution regarding UAIZ in the City of San Diego; November 18, 2015 (4), directed the CAO to create the framework and criteria for evaluating jurisdictional requests to establish UAIZ within incorporated cities and the unincorporated areas for San Diego County.

BOARD POLICIES APPLICABLE:

B-29 – Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery
I-133 – Support and Encouragement of Farming in San Diego County

BOARD POLICY STATEMENTS:

Board Policy B-29, directs departments to seek full cost recovery for programs proposed, to the extent possible. In order to promote the UAIZ program and reduce a barrier to entry with the cost of application, Planning & Development Services is not recommending full cost recovery of the program application fee. Justification for less than full recovery is provided within this letter, in accordance with Board Policy B-29.

In accordance with Board Policy I-133 the County UAIZ program will help in supporting and encouraging farming in San Diego County through establishment of tax incentives.

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: Planning & Development Services

OTHER CONCURRENCE(S): Property Tax Services

SUBJECT: ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE ZONES (POD 15-008) (2/26/20 – FIRST READING; 3/11/20 – SECOND READING) (DISTRICTS: ALL)

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