

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.

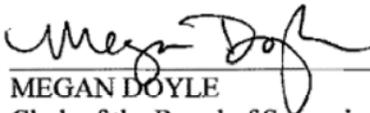
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on SEP 29 2015 by the following vote:

AYES: **CHAVEZ, CORTESE, SIMITIAN, WASSERMAN, YEAGER**
NOES: **NONE**
ABSENT: **NONE**
ABSTAIN: **NONE**



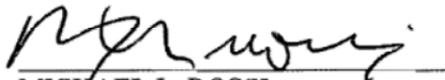
DAVE CORTESE, President
Board of Supervisors

ATTEST:



MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



MICHAEL L. ROSSI
Deputy County Counsel