

Hem 52 7/10/2018

ORDINANCE NUMBER O- 20959 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 20 2018

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SAN DIEGO ESTABLISHING AN URBAN  
AGRICULTURE INCENTIVE ZONE, AND SUPERSEDING  
AND REPLACING ORDINANCE NUMBER O-20902.

WHEREAS, California Assembly Bill 551 (Urban Agriculture Incentive Zones Act) added Chapter 6.3, commencing with Section 51040, to Part 1 of Division 1 of Title 5 of the California Government Code, amended Section 402.1 of the California Revenue and Taxation Code, and added Section 422.7 to the California Revenue and Taxation Code; and

WHEREAS, the purpose of the Urban Agriculture Incentive Zones Act is to encourage small-scale urban agricultural uses on vacant or unimproved properties, with the goal of providing the benefits of increasing vibrant and open green spaces, building community, providing education about the production of fresh food, improving public health, and increasing access to fruits, vegetables, and other produce in areas that currently lack fresh food; and

WHEREAS, the City of San Diego (City) has existing land use zoning regulations pertaining to small-scale agriculture; and

WHEREAS, the Urban Agriculture Incentive Zones Act authorizes, under specified conditions, the City and a landowner to enter into a contract to enforceably restrict the use of vacant or unimproved lands for small-scale agricultural use in urban areas, provided the contract is for a term of no less than five years and the property, or combination of contiguous properties, is at least 0.10 acre and not more than three acres in size; and

WHEREAS, in exchange for the property owner restricting property for urban agriculture and entering into a contract pursuant to the Urban Agriculture Incentive Zones Act, the San Diego County Assessor (County Assessor) is required to value the restricted property at the lowest of three values: the value based on the average per-acre value of irrigated cropland in California, the current fair market value, or the factored base year value (Proposition 13 value); and

WHEREAS, interested property owners may fill out an application with the City's Economic Development Department to participate in the Urban Agriculture Incentive Zone (UAIZ) program; and

WHEREAS, if the City deems that an application does not meet the purposes, provide the benefits, or further the goals of the City in creating the UAIZ, that application will not be approved; and

WHEREAS, the raising, cultivating, harvesting, producing, processing, selling, dispensing, distributing, or storing of Marijuana (as that term is defined in San Diego Municipal Code (Municipal Code) section 42.1502) or Marijuana products does not meet the purposes, provide the benefits, or further the goals of the City in creating the UAIZ, and any such activity on a property shall disqualify that property from participation in the UAIZ; and

WHEREAS, pursuant to the Urban Agriculture Incentive Zones Act, property owners that breach the contract or terminate the contract prior to its expiration are obligated to pay a fee equal to the tax benefit they received; and

WHEREAS, pursuant to the Urban Agriculture Incentive Zones Act, no UAIZ may be established in any area that is currently subject to, or has been subject to within the previous three years, a contract pursuant to California Government Code sections 51200 to 51297.4 (Williamson Act); and

WHEREAS, pursuant to the Urban Agriculture Incentive Zones Act, the establishment of the UAIZ within the City of San Diego is subject to approval by a resolution from the County Board of Supervisors; and

WHEREAS, on February 14, 2018, the San Diego City Council (City Council) adopted Ordinance No. O-20902 establishing the UAIZ, which took effect 30 days after that date of final passage; and

WHEREAS, during the discussion preceding adoption of Ordinance No. O-20902, the City Council requested that City staff return with an amendment that specifically prohibited properties involved in certain marijuana-related activities from participating in the UAIZ program; and

WHEREAS, this ordinance is now necessary to include that prohibition in the UAIZ program and, upon this ordinance becoming effective, it shall supersede and replace Ordinance No. O-20902; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. In accordance with Urban Agricultural Incentive Zones Act, an Urban Agriculture Incentive Zone is hereby established in the City of San Diego. The Urban Agriculture Incentive Zone shall consist of all lands within the City of San Diego except those lands that are currently subject to, or have been subject to within the three years immediately preceding the effective date of this Ordinance, a contract pursuant to the Williamson Act. The boundaries of the Urban Agriculture Incentive Zone shall be coterminous with the boundaries of the City of San Diego.

Section 2. Pursuant to the Urban Agricultural Incentive Zones Act, the City and any property owners within the Urban Agriculture Incentive Zone may enter into an enforceable

contract to restrict the use of eligible property to small-scale agriculture uses for an initial term of not less than five years (UAIZ Contract).

Section 3. Property eligible to enter into a UAIZ Contract shall be any property, or combination of contiguous properties, within the Urban Agriculture Incentive Zone that is at least .10 acre and not more than three acres and that allows agricultural use, as indicated in the use regulations tables of the Municipal Code Chapter 13.

Section 4. Neither the creation of the Urban Agricultural Incentive Zone nor the execution of any UAIZ Contract shall in any way expand the allowable uses of any property under the City's existing land use zoning regulations.

Section 5. Pursuant to the Urban Agricultural Incentive Zones Act, upon entering a UAIZ Contract, the County Assessor is required to value the restricted property at the lowest of three values: the value based on the average per-acre value of irrigated cropland in California, the current fair market value, or the factored base year value (Proposition 13 value).

Section 6. Agricultural activity must commence on the property within 60 days after the execution of the UAIZ Contract.

Section 7. Pursuant to the Urban Agricultural Incentive Zones Act, the entirety of the property subject to a UAIZ Contract shall be dedicated to "Agricultural Uses" as defined in California Government Code section 51040.3(c), provided that the particular Agricultural Uses are allowable uses of the property under the City's existing land use zoning regulations.

Section 8. Pursuant to the Urban Agricultural Incentive Zones Act, no dwellings are permitted on the property subject to a UAIZ Contract with the exception of certain structures that support the agricultural activity, including, but not limited to, toolsheds, greenhouses, produce stands, and instructional space.

Section 9. Pursuant to the Urban Agricultural Incentive Zones Act, only pesticides or fertilizers sanctioned by the U.S. Department of Agriculture's National Organic Program may be used on the property that is subject to the UAIZ Contract.

Section 10. Pursuant to the Urban Agricultural Incentive Zones Act, a property owner shall be subject to a fee equal to the cumulative value of the tax benefit received during the term of the UAIZ Contract upon cancellation of the UAIZ Contract prior to the expiration of the UAIZ Contract.

Section 11. A property owner may be subject to a fee payable to the City for the implementation and administering of the UAIZ Contract.

Section 12. A property owner who enters into a UAIZ Contract and the property subject to a UAIZ Contract are subject to additional regulations as determined by the appropriate Agricultural Use Category in the Municipal Code, by the County of San Diego, and by the State Legislature.

Section 13. The raising, cultivating, harvesting, producing, processing, selling, dispensing, distributing, or storing of Marijuana (as that term is defined in the Municipal Code section 42.1502) or Marijuana products on a property shall disqualify that property from participation in the UAIZ.

Section 13. A full reading of this ordinance is dispensed with prior to its passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 14. This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

Section 15. Upon this ordinance taking effect, this ordinance shall supersede and replace Ordinance No. O-20902.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Adam R. Wander  
Deputy City Attorney

ARW:jdf  
06/05/18  
Or. Dept: Econ.Develop.  
Doc. No.: 1703173

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 10 2018

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 7/20/18  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on JUL 10 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 20 2018

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 18 2018

, and on JUL 20 2018

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

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