THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED: July 12, 2011 REPORT NO: 11-109

ATTENTION: Committee on Land Use and Housing

SUBJECT: Urban Agriculture – Potential Regulatory Amendments

REQUESTED ACTION:

This is an information item, no action is required. Staff is requesting the Committee provide input on each of the potential amendments discussed in this report.

BACKGROUND:

In March of this year the City of San Diego was awarded a $50,000 grant to pursue Land Development Code amendments supporting urban agriculture. The grant is funded through SANDAG on behalf of the County of San Diego Health and Human Services Agency, which is implementing the Communities Putting Prevention to Work (CPPW) Healthy Works SM program which is funded by the Centers for Disease Control and Prevention with American Recovery and Reinvestment Act funds. The purpose of the grant program is to combat rising obesity rates in the San Diego region by planning communities in ways that support increased physical activity and access to healthy foods.

Healthy WorksSM is a countywide initiative making systems and environmental changes promoting wellness and addressing the nationwide obesity epidemic. Healthy WorksSM, administered by the County of San Diego Health and Human Services Agency, is funded by the American Recovery and Reinvestment Act of 2009 and includes the University of California San Diego, SANDAG, San Diego County Office of Education, Community Health Improvement Partners, and San Diego State University, along with numerous community-based partners. The project is part of the County's "Live Well, San Diego! Building Better Health" initiative, a 10-year vision for healthy communities. For more information see the website at www.healthyworks.org<http://www.healthyworks.org

The primary goal of the City's Urban Agriculture grant is to accommodate new models of urban agriculture to increase access to healthy, local, sustainable food. Urban agriculture topics to be addressed include: use of commercially zoned properties; on-site produce sales; farmers markets; and small-scale animal husbandry. The scope of work includes drafting proposals to simplify the

permitting process for urban agriculture, to propose new or revised regulations to support urban agriculture activities, and to identify where policy language could be strengthened. The work program broadens the code work already completed related to community gardens.

The grant includes a partnership with the International Rescue Committee (IRC) and the San Diego County Childhood Obesity Initiative /Community Health Improvement Partners (COI/CHIP). To date, the COI/CHIP has been assisting with project research. The primary role of the IRC is to assist with public outreach and education by creating effective outreach materials, providing translations services, and hosting urban agriculture open houses/demonstration sites. The IRC's work will begin when the processing of their agreement with the City is complete.

SUMMARY:

Three subject areas have been identified that have the potential to improve access to healthy, local, and sustainable foods: creation of a new use "retail farms", reconsideration of certain animal husbandry regulations, and simplification of the regulations for conducting a farmers market on private property. Additional issues and proposals may arise as a result of the public outreach process.

Retail Farms

The retail farm is based on a new model for producing and providing produce. Generally, the concept is to take advantage of new growing techniques that allow for production of high yields of fresh produce using significantly less resources (water and land) then would be used in standard farming. Key to increasing local access to healthy food is allowing the retail farm in commercial zones, allowing produce to be sold in the community where it is grown. The City's current zoning regulations do not accommodate this hybrid agriculture/retail use. Farming (agriculture) is permitted only in agricultural zones and as such requires that the produce be shipped to distribution centers which then again transport the produce to local grocers.

Staff has had discussions with Home Town Farms, a local business that is an example of this model, to understand some of the physical and operational needs of the model. Home Town Farms describes itself as a commercial vertical organic urban farm. There are many benefits to the retail farm beyond that of providing communities locally grown fresh produce. The following are a number of other benefits that may come with this model:

- 85% less water is used as compared to a traditional farm
- 70% less land is used to create the same yield as traditional farm
- Reduced carbon impact due to limited or no distribution (farm to distributor to grocer)
- Highly nutritious produce (picked/sold when ripe)
- Pesticide and herbicide free produce

The following are some of the physical and operational characteristics of the Home Town Farms example of a retail farm.

- Maximum of 4 acres. Sites larger that 4 acres would likely result in surplus food production and result in the need for a system for handling, processing, and distributing the surplus.

- The minimum retail space is approximately 1,000 square feet per acre of farm area.
- Green houses and shade structures would be required.
- The use can be developed in many locations
  - Vacant parking lots
  - On roof tops, including existing shopping centers
  - Existing structures
- Approximately 15 employees would be working in a full size retail farm (retail and farming operation).

Other business models using high-yield, urban farming techniques such as hydroponics and other types of vertical gardening could also benefit from new regulations for retail farms.

There are a number of issues that will need to be understood and analyzed prior to developing regulations for retail farms. Some of the considerations would be potential impacts to adjacent uses, aesthetics of the facility (street façade), parking, and height limitations.

Animal Husbandry

These potential amendments revolve primarily around regulations for raising fowl (primarily chickens), goats, and bees in single family residential zones and as a part of community gardens. The City currently has regulations for each of these, within Chapter 4 of the Municipal Code – Health and Sanitation. In order to gather information staff reviewed how other cities regulated fowl, goats, and bees in residential zones. The cities chosen were the eight largest cities in California and the eight largest cities in the U.S. (Los Angeles and San Diego fall within both groupings). In addition, some information is provided on Seattle's Urban Agriculture regulations, which were adopted in August of 2010.

Fowl/Chickens

There are multiple benefits to allowing fowl in residential zones. The first and most obvious is production of eggs. A healthy adult hen generally lays up to 300 eggs a year. That means that five hens would supply approximately 30 eggs a week which would meet the needs of a typical family of four.[1] Second, are the health benefits associated with eggs laid in the backyard versus eggs laid in the farm/factory. Backyard eggs contain 25 percent more vitamin E, 33 percent more vitamin A, and 75 percent more beta carotene. Third, home raising reduces the need for transporting eggs from farm/factory to store to home resulting in a reduction in carbon emissions and packaging materials. Fourth, many see a benefit in knowing that the chickens are raised and fed in humane conditions. Fifth, the manure can be added to compost piles or used directly as a fertilizer when tilled into the soil. And finally, many see a benefit in raising the hens as family pets.

The keeping of fowl is regulated in Chapter 4, Article 2, Division 7 of the Municipal Code (Health Related Businesses and Activities – Animals and Poultry). San Diego currently allows up to 25 fowl in a residential zone (no distinction is made between single family and multi-family) provided that the fowl are in an enclosure that is 50 feet from any dwelling including the onsite dwelling. The regulations also require that food be stored in containers to protect from

[1] U.S. Department of Agriculture – Egg consumption for 2008 was 247 eggs per person, which calculates to 21.5 eggs per week.

rodents and that any droppings and food scraps be removed once a week or more as needed to prevent an unsanitary condition.

Table 1- Fowl Permitted in Single Family Residential Zones by Large Cities, generally identifies how other cities address fowl in their codes. Ten of the 14 cities allow fowl in single family residential zones and of those eight require that the fowl be in some sort of enclosure. Where the codes vary most is in the number of fowl permitted, the distance from residential units (onsite and adjacent) and whether or not roosters are allowed. San Diego currently allows considerably more fowl then most cities and has no restriction on keeping roosters. In terms of distance to offsite structures San Diego lies in the middle. An interesting standout is that the City of Long Beach allows a single fowl to be kept as a pet provided it is housed in a coop 20 feet from any dwelling. Seattle's code allows for up to eight domestic fowl to be kept on any lot. Additional fowl may be kept on lots greater than 10,000 square feet that include either a community garden.

Table 1
Fowl Allowed in Single Family Residential Zones by Large Cities
Generalized Comparisons

Regulation		California Cities								Other Large Cities					
		San Diego	Los Angeles	San Jose	San Francisco	Fresno	Sacramento	Long Beach	Oakland	New York	Chicago[7]	Houston	Philadelphia	Phoenix	San Antonio
Fowl Allowed		Y	Y[1,2]	Y	Y	N	N	Y	Y	Y	n/a	Y	N	Y	Y
Number allowed		25	--	6[4]	4	n/a	n/a	20[5]	--	--	n/a	30	n/a	20	3
Roosters allowed		--	Y[3]	N	--	n/a	n/a	N	N	N	n/a	--	n/a	N	--
Setback (ft.)	Offsite dwellings	50	--	20[4]	20	n/a	n/a	50[5]	20	--	n/a	100	n/a	80	100
	Onsite dwelling	50	--	0	20	n/a	n/a	50[5]	20	--	n/a	100	n/a	80	0
Enclosure required[6]		Y	--	Y	Y	n/a	n/a	Y	Y	--	n/a	Y	n/a	Y	Y

Notes:
1 Allowed for noncommercial uses only, unless the premises is ≥5 acres.
2 On lots ≥ 5,000 square feet.
3 Only one rooster is allowed.
4 The number of fowl can increase with increased setback up to a maximum of 20 fowl with a setback ≥ 50 feet.
5 A single fowl may be kept as a pet provided the coop is 20 feet from any dwelling.
6 When a code is silent and requires a setback from an onsite dwelling it is inferred that an enclosure is required.
7 It is not clear whether fowl are permitted based on the City codes, since they only address banning fowl for purposes of food and do not specify that fowl are otherwise permitted.

There a several issues that would need to be considered in amending San Diego's regulations regarding fowl including but not limited to the following:

- What is the appropriate distance separation from dwelling units
- Should the distance separation requirement be maintained for the onsite dwelling unit
- If the distance separation is reduced should number of fowl be reduced

- Should the regulations include a ban on roosters
- Should requirements for minimum enclosure requirements be developed
- What number of fowl is appropriate on residential lots and on community garden

Goats

The primary benefit to having goats in an urban setting would be for production of milk and cheese. This is especially beneficial to individuals that are allergic to cows milk but are able tolerate and even thrive on goat's milk. The reason for this, as stated by the American Dairy Goat Association is that the fat globules in goats are smaller than those in a cow and that the curd is softer and smaller which eases digestion. On average two standard goats can provide as much as a gallon of milk per day. It should be noted that goats are herding animals and it is recommended that they not be raised singly.

The keeping of goats is regulated in Chapter 4, Article 4, Division 3 (Disease Control -Nuisances - Animals). San Diego currently prohibits goats in all but agricultural zones except when used temporarily for brush management purposes. The same 14 city codes that were reviewed for fowl were also reviewed for keeping of goats (Table 2). Most of the codes treat goats as livestock along with cattle, ox, horses, and sheep and do not expressly allow them in residential zones. The exceptions are the Cities of Phoenix, Los Angeles, and Fresno. These cities allow goats based on minimum lot sizes of 10,000 square feet, 17,500 square feet, and 1 acre respectively. It should be noted that in a wider search of cities research has found that a number of cities do allow for the keeping of pygmy goats which are, as the name suggests, are smaller and generally weigh the same as a medium to large sized dog (50-65 pounds). In Seattle, up to three small animals (including Miniature, Dwarf, or Pygmy goats) are allowed accessory to each dwelling unit or business establishment, with additional animals allowed on lots 20,000 square feet or more.

Table 2
Goats Permitted in Single Family Residential Zones by Large Cities
Generalized Comparisons

Regulation		California Cities								Other Large Cities					
		San Diego	Los Angeles	San Jose	San Francisco	Fresno	Sacramento	Long Beach	Oakland	New York	Chicago	Houston	Philadelphia	Phoenix	San Antonio
Goats Allowed		N	Y[1]	N	N	Y[2]	N	Y	Y[3]	N	N	N	N	Y[4]	N
Number allowed		n/a	n/a	n/a	n/a	n/a	n/a	1	--	n/a	n/a	n/a	n/a	--	n/a
Setback (ft.)	Adjacent dwellings	n/a	n/a	n/a	n/a	n/a	n/a	100	--	n/a	n/a	n/a	n/a	--	n/a
	Onsite dwelling	n/a	n/a	n/a	n/a	n/a	n/a	0	--	n/a	n/a	n/a	n/a	--	n/a
Enclosure required[6]		n/a	n/a	n/a	n/a	n/a	n/a	Y	--	n/a	n/a	n/a	n/a	Y	n/a

Notes:
[1] Allowed only in the RA zone on lots ≥17,500 square feet.
[2] Allowed only in the Annexed Rural Overlay District on lots ≥1 acre (allows two goats)
[3] Oakland requires that animals be kept in a health, sanitary condition and that no nuisances exist.
[4] Allowed only on lots ≥10,000 square feet.

There a number of issues that would need to be considered in amending San Diego's regulations regarding goats including but not limited to the following:

- What is the appropriate land area required (minimum lot size)
- Should goats be allowed as a part of community gardens
- How far should enclosures be from adjacent residences and property lines
- How many goats should be allowed
- If more than one goat is permitted should a square foot per goat calculation be developed
- What are the enclosure requirements (height and square footage)
- Should males be restricted (they have a distinctly foul odor)
- What are the standards for cleanliness

Beekeeping

Urban beekeeping provides direct individual benefits to the beekeeper(s). The direct benefit is rather straightforward; beekeeping results in fresh honey for consumption. Additionally, fresh uncooked honey has been demonstrated to help alleviate some seasonal allergies. Beekeeping also serves a greater purpose, increasing the supply of honeybees which has been severely reduced as a result of Colony Collapse Disorder. The U.S. Department of Agriculture estimates that approximately one-third of America's food supply is dependent on bee pollination.

Beekeeping is regulated in Chapter 4, Article 4, Division 4 (Disease Control -Nuisances - Beekeeping). It should be noted that this Division of the Municipal Code has not been amended since it was first adopted in June 1977. On the face it appears that some provision related to County Agricultural Commissioner, some enforcement provisions, and the permit and permit fee are outdated. The City regulations require that a permit ($3.00) be obtained from the City Treasurer and that the permit shall be valid for a period of three years. A single hive can be maintained on residential property provided that it is located 25 feet from the residential property line or at least 100 feet from any adjacent offsite dwelling unit and at least 100 feet from the public right-of-way. If more than one hive is located on the property then the distance to any offsite dwelling unit increases to 600 feet.

Again, the City codes that were reviewed for fowl and goats were also reviewed for regulations on beekeeping (Table 3). An interesting note here is that many of the city codes appeared to be silent (--) on beekeeping. It is possible that responsibility for regulating beekeeping in some of these cities lies with the associated county government; staff has not researched those county codes.

There a number of issues and tasks that would need to be considered in amending San Diego's regulations regarding beekeeping including but not limited to the following:

- Public concerns, real and perceived regarding bee stings and issues related to allergies
- Coordination with San Diego County Agriculture Department
- What are the appropriate distances from adjacent dwelling units and public rights-of-way
- What are the best standards for locating and partially enclosing a hive
- Should a minimal lot size for beekeeping be established
- Should beekeeping be allowed as a part of community garden
- How should requests for more than one hive be addressed

Table 3
Beekeeping Allowed in Single Family Residential Zones by Large Cities
Generalized Comparisons

Regulation		California Cities								Other Large Cities					
		San Diego	Los Angeles	San Jose	San Francisco	Fresno	Sacramento	Long Beach	Oakland	New York	Chicago	Houston	Philadelphia	Phoenix	San Antonio
Apiary Allowed		Y	--	Y	--	N	--	Y	--	N	--	--	--	Y[3]	--
License/permit		Y	--	Y	--	--	--	Y[2]	--	--	--	--	--	N	--
Number of hives		1[1]	--	--	--	--	--	--	--	--	--	--	--	3[4]	--
Minimum lot size		--	--	--	--	--	--	--	--	--	--	--	--	6,000	--
Setback (ft.)	Offsite dwellings	100[1]	--	50	--	--	--	100	--	--	--	--	--	--	--
	Onsite dwelling	0	--	0	--	--	--	0	--	--	--	--	--	--	--
	R-O-W	100	--	--	--	--	--	100	--	--	--	--	--	--	--
	Res. property line	25	--	10	--	--	--	--	--	--	--	--	--	5	--

Notes:
[1] The setback distance increases to 600 feet if more with than 1 hive.
[2] The bee keeper must be a registered beekeeper with the LA County Depart. Of Agriculture.
[3] Allowed only with consent of adjacent property owners.
[4] One hive per 1,700 square feet of area.

Famers Markets

With few exceptions, farmers markets have become very popular in the City of San Diego. They provide many communities the opportunity to buy fresh produce, cut flowers and live plants while some of the larger markets also provide prepared foods, hand crafted merchandise, and entertainment. They have become community events that bring people together and provide an entire community access to healthy, local, and sustainable food.

Farmers markets that take place on public lands are overseen by the City's Office of Special Events. These markets take place on a City street(s) for a specified amount of time for one day a week. The Office Special Events charges a 150 dollar fee for the Special Event Permit and reviews the proposal for numerous issues related to safety and compliance with City regulations. The issues reviewed include but are not limited to ADA compliance, electrical, traffic control, fire safety, storm water runoff, and recycling. In addition to undergoing City review the markets are also subject to review/permits from the County Departments of Health and Agriculture Weights and Measures.

There are communities within the City that do not lend themselves to markets in the public right-of-way. Examples are communities with suburban street patterns that limit the ability to close off streets as well as communities where the topography makes locating on a public street challenging. In these communities farmers market could locate in portions of commercial parking lots. However, farmers markets on private property are currently regulated under the broad use heading of "Swap Meets and Other Large Outdoor Retail Facilities" and as such are

permitted only in a limited number of commercial zones, and require approval of a Conditional Use Permit which can be a costly and time consuming process. Simplifying this process would increase opportunities for farmers markets in many communities and increase access to healthy, local, and sustainable foods.

There a number of issues and tasks that would need to be considered in amending San Diego's regulations regarding farmers' markets including but not limited to the following:

- Consider allowing the farmers markets as a limited use in all commercial zones (by-right provided there is compliance with use-specific regulations)
- Consider incorporating the items reviewed by the Office of Special Events in permitting Farmers Markets in any revised regulations
- Analyze potential impacts on parking in shopping centers
- Consider size requirements for markets based on parking

Community Gardens

In addition to the three main subject areas staff is considering two "clean-up" modifications to the recently adopted community garden regulations. Community gardens are currently permitted with a Neighborhood Use Permit (NUP) in the Industrial Light zones (IL-1-1 and IL-3-1) but prohibited in the IL-2-1 zone. The zones that allow a garden with an NUP permit light industrial, office, and commercial uses. The IL-3-1 zone, which prohibits gardens, allows light industrial, office and limited commercial uses. It appears that prohibiting community gardens in the IL-3-1 may have been an oversight and that perhaps allowing a community garden with an NUP is appropriate in the zone. The second modification has been requested by the garden advocates. Currently City regulations allow for garage, yard & estate sales in residential zones. The number of sales is limited to three times per year with each sale being no more than two days. The garden advocates would like to use the same standards to allow them to sell produce in community gardens in residential neighborhoods. This would provide these gardens opportunities for raising funds for the garden and exposing additional people to the community garden.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
On June 7, 20112 the City Council amended the community garden regulations to simplify the garden approval process, to allow gardens in commercial zones, and to allow gardens in commercial and industrial zones to sell produce onsite.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Staff will follow the established public outreach process that has been established for amendments to the Land Development Code even for Municipal Code amendments that do not fall with the Land Development Code. Public outreach will include presentations/discussions with the Code Monitoring Team, the Technical Advisory Committee, the Community Planners Committee, an e-blast to approximately 2,000 interested persons including each community planning group member, and a noticed public hearing before the Planning Commission prior to a noticed City Council hearing. In addition the standard process followed by Development Services department, the IRC will reach out to high-need neighborhoods and others by producing language-appropriate outreach materials and community questionnaires, leading tours and open houses of successful community gardens, and engaging the public on food system issues.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
Key stakeholders include neighborhood and community planning groups, organizations that work to create local food sources, the public health community, and businesses interested in providing increased fresh food options.

Respectfully submitted,

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Development Services Director

Broughton/DPJ