New Berkeley Urban Ag Ordinance Cultivates Growing Food Together

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On August 23, 2018, the Berkeley City Council adopted a newly revised Urban Ag Zoning Ordinance to further allow citywide food growing, provide criteria for city agricultural land use intensity, set local food sales/crops parameters, and guidance for associated agriculture - educational opportunities. For years, growing food on a Berkeley vacant lot was a rabbit hole complicated by incomplete agricultural land use zoning guidance. This ambiguity left city staff and residents to self-interpret statutes, despite increasing interest in urban farming that could bring neighborhood residents closer together. The Berkeley Food Policy Council, Berkeley Community Garden Collaborative plus the Ecology Center actively advocated for the new Ordinance, along with the Berkeley Climate Action Coalition, to name a few groups in support.

Previously in Berkeley, the Residential and Manufacturing Districts Zoning included statues allowing some "urban ag" in residential areas, but food growing as an agricultural land use was minimally referred to, and mostly undefined by City of Berkeley's Zoning Ordinance criteria. That older ordinance allowed for commercial farming/gardening in residentially zoned lands as an accessory to a residential use. This meant a residential property with a house or apartment building on it could have a backyard garden supplying food to the neighborhood by sale or donation. Even an occasional produce stand was allowed, however, they were not permitted in other city zones, even on rare, residentially zoned-vacant lots, excepting Manufacturing (M) and Mixed Manufacturing (MM) districts.

In zoning statutes for those districts, minimal language specified ag land use limits, except for permit types based on land area occupied. In fact, the Berkeley City Zoning Ordinance defined neither "Farms," nor "Agricultural Uses," in any of its statutes before the amendment, thus, the new ordinance is more comprehensive and helpful.

The difference between the two urban agricultural land use intensity levels revolves around thresholds for:

- Parcel size: (less than or greater than 7,500 sq. ft. co-determines designation as an LIUA vs. HIUA land use). Greater than 7,500 sq.ft. requires an Administrative Use Permit (AUP).
- Lot coverage with accessory structures: (<20% of land can include coverage with a greenhouse or toolshed). Must also comply with Berkeley Accessory Buildings and Structures (Zoning) Chapter.
- Hours of farm and activity operation(s): 8AM-8PM, 7 days/week. An AUP is required for operations outside of these times.
- Group classes and workshops: Up to 20 participants allowed, up to three times per week. Classes and workshops meeting more often than three times per week would also require an AUP.
- Pesticide use is set as a defining threshold criteria for HIUA designation, fostering public notification and review through a corresponding AUP review process.
- Cannabis cultivation and small animal husbandry exclusion in Berkeley city farming, as covered under other regulatory statutes, and are not considered allowed urban agricultural land uses.

The City Council referred two distinct 2016 zoning revision matters to the Planning Commission, one on urban ag and the other on community gardens. Both sought clarity by defining city farmland uses, products, permitting, and accessory structures, and by setting food growing land use limits based on intensity of production and use. Prior Berkeley city farming regulations allowed limited sales of "non-processed edibles" without clear definition of allowable crops that could be sold, or guidance related to minimizing nuisance-causing agricultural activities (like manure smells and machine noises).

The Planning Commission streamlined inner city food growing regulations, recognizing

urban ag's social, economic and environmental benefits as contributing to the development of vibrant, multicultural, livable cities. Although the 2016 zoning revision issues were referred separately, the Commission chose not to separate urban farms and community gardens by definition, but by site criteria based on land use extent in production, size and intensity.

As a progressive policy, this combined category upholds urban farms and community gardens as potential community-agricultural education centers where neighborhood residents can also learn, for example, the benefits of locally grown produce, or how to save seeds for the next crop.

150 lbs of worms implementing SB1383, next page.

Amended urban ag zoning added statutes on urban farming operations, and recognized farming as an activity aligned with the Berkeley Climate Action Plan, fueling zoning reform. Indeed, Mayor Arreguin had been on the City Council when he initiated the Council's two referrals for ordinance revision back to the Planning Commission for review, and collectively, the Planning Commission recommended urban ag be an allowable citywide land use in late summer 2018.

A **Low-Intensity Urban Agriculture (LIUA)** designation includes community gardens or yards where small amounts of food are sold and food is allowed to be grown by right with a Zoning Certificate citywide, and without being subject to review hearings and excessive fees.

Conversely, **High-Intensity Urban Agriculture (HIUA)** includes urban food-growing land uses requiring higher levels of regulation and/or community input due to greater extent of scale, production for sales, and possible needs for increased regulation addressing food safety.

One additional policy or program model that shows great promise is Senate Bill (SB) 732, a possible Urban Ag Element of General Plans. A second one includes municipal programs allowing urban lands cultivation, sometimes abandoned lands, as multi-jurisdictional urban ag land and open space access programs.

One set of examples on the west coast include San Francisco Recreation & Parks' Department's Community Garden and Urban Ag Programs. Green Thumb NYC, a municipal urban ag/horticulture and community garden program, now over forty years old is another example. These programs can pave pathways towards greater potential lands access for low income persons, and in some cases, have been implemented with means tests to support low income - access to available land for cultivation. As open space sites, they also can be places where inclusion of environmental best practices like composting, attracting and supporting pollinators, and many water management methods can be done on site, demonstrated for public understanding and community educational opportunities.

Dynamic policies like SB 732, adding urban ag land uses into city/county General Plans, and land access programs supporting parks', abandoned and government lands'-cultivation, are models some municipalities have undertaken. These programs create greater lands access, and in some cities, have been implemented with means tests, ensuring low income persons' first preference to available land for food cultivation. If implemented with full local support, such planned programs can uplift permanent urban farms as open spaces for those who need them the most, upkeeping them as a resource for perpetuity.