



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street. Sacramento. CA 95814-2604

STAFF REPORT  
June 19, 2012

Honorable Members of the  
Law and Legislation Committee

**Title:** Discussion on Possible Zoning Code Amendments Related to Produce Stands  
(M12-004)

**Location/Council District:** Citywide

**Recommendation:** Discussion and recommendation on amending the Zoning Code to  
modify zoning regulations regarding the growing and sale of produce in the City of  
Sacramento

**Contact:** Joy Patterson, Principal Planner, (916) 808-5607

**Presenter:** Joy Patterson, Principal Planner, (916) 808-5607

**Department:** Community Development

**Division:** Planning

**Organization No:** 21001221

**Description/Analysis:**

**Issue:** At the City Council meeting of September 13, 2011, Council member Schenirer requested that Community Development Department staff prepare a report for the Law and Legislation Committee on farm stands. Over the past several years there has been an increase in the discussion on healthy living initiatives resulting in an interest by council members and citizens alike in having easy availability of fresh fruits and vegetables to people who live and work in Sacramento. One of the results of this interest was the adoption of the community garden ordinance in the summer of 2011. Council member Schenirer requested that the city staff continue to look into this issue and bring back to the committee a discussion on food stands as they relate to the Zoning Code (Title 17 of the City Code). The attached discussion paper lists the current areas where food stands and farming are discussed in the City of Sacramento Zoning Code and potential amendments to the code.

**Committee/Commission Action:** None.

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**Policy Considerations:** The City of Sacramento 2030 General Plan policies encourage a healthy lifestyle for Sacramento residents to improve overall public health. The Public Health and Safety Goal 5.1 states that a goal of the General Plan is to: "Improve the provision of human services and promote public health and safety." In addition, the Agriculture section of the Environmental Resources element includes a number of goals and policies that promote improving access to locally grown and organic foods, including:

**ER 4.1 Access to Locally Grown and Organic Foods.** Support access to locally grown and organic foods to Sacramento residents as a means of supporting local farmers, keeping agricultural lands in production, promoting sustainable agricultural practices, reducing energy expended on food transport, and preserving Sacramento's agricultural heritage.

**ER 4.1.2 Community and Rooftop Gardens.** The City shall promote urban agriculture by supporting community and rooftop gardens and recognize their value in providing fresh food in urban areas in addition to their recreational, community building, landscaping, and educational value.

The Climate Action Plan also includes specific measures and supporting actions that address sustainable production and consumption of food as means of both reducing greenhouse gas (GHG) emissions and increasing future resiliency to climate change, including:

**Measure 4.1: Sustainable Production and Consumption.**

Measure 4.1 Supporting Action: Continue to work with community partners and local neighborhood groups to promote and support access to fresh, locally-grown food, encourage the purchase of locally-produced food, and sponsor public education events related to gardening and locally-produced food.

**Measure 7.1: Education and Community Involvement**

Continue to collaborate with city agencies, nonprofit organizations, neighborhood groups and other community organizations to promote the issues of air quality, food availability, renewable energy systems, sustainable land use and the reduction of GHG emissions.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** Because this report concerns general policy and procedure making, CEQA does not apply per Section 15378(b)(3), which states that continuing administrative or maintenance activities, which are not conducted in conjunction with a project subject to CEQA review, are not considered to be "projects" and are therefore

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exempt from CEQA.

**Sustainability Considerations:** See policy considerations above.

**Rationale for Recommendation:** The proposal to amend the Zoning Code is consistent with General Plan policies to promote a healthy lifestyle for residents of the City of Sacramento.

**Financial Considerations:** None.

**Emerging Small Business Development (ESBD):** None

Respectfully Submitted by:



Joy Patterson  
Principal Planner

Approved by:



Max Fernandez  
Director of Community Development

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## DISCUSSION PAPER ON FOOD/PRODUCE STANDS

### Existing Regulations

Title 5 of the Sacramento City Code (Business Licenses and Regulations) regulates the location of **outdoor vending** and requires, except in certain circumstances, that the sale of any food, drink or merchandise be from inside a fully enclosed building. Under the exceptions, the City does exempt: 1) The display of merchandise outside a fully enclosed building, in association with a business where purchase of such merchandise ordinarily takes place within the building; 2) Fruit and vegetable stands possessing a valid special permit from the City Planning Commission and authorization from the California Department of Agriculture. 3) Fund-raising activities conducted by organizations exempted that are also exempted from the City's business operations tax requirement; and 4) Flea markets. Title 5 also contains the regulations for entertainment permits. Non-profit organizations that have outdoor sales as a special event are eligible to apply to the City for an event permit under this section of the code.

The City of Sacramento Zoning Code (Title 17) currently allows **Produce Stands** in almost all zones with a Planning Commission Special Permit. The code does not define a produce stand and, to staff's knowledge, no one has ever applied for a special permit for a produce stand.

The recent ordinance amendment related to **community gardens** also permits, by right, the incidental on-site sale of fruits, vegetables, flowers, or herbs grown in the community garden.

The City also allows people to **garden at their place of residence**, which would include the growing of food products. This is not a specific line in the land use chart but would be considered part of the landscaping at a residence. The City Code requires that landscaping, in general, be appropriately maintained. Under **the home occupation permit regulations** of the City (17.224.010) the City does not permit a home occupation that involves food handling, processing or packing. This prohibition does not apply to occupations that are office use only or involve the use of commercially prepackaged foods where the foods are not removed from the packaging. Technically a person in a residential zone would also be permitted to apply for the special permit for a produce stand mentioned above.

**Restaurant operators** have asked if they are permitted to have a **garden** to grow food products. Again, if the garden is on the same property as the land use and incidental to the primary use of the property, this would be considered part of the landscaping of the site. As noted above, the landscaping must be appropriately maintained and the city would not be regulating the use of items grown in a garden for use in the restaurant. That is the purview of the appropriate county, state and federal agencies. If a restaurant chef wanted to use plants grown at an off-site garden, he/she would need to be part of a community garden or have the garden in an agricultural zone if it was in the

city limits.

The land use chart also has a category of **Food store/grocery/deli**. There is not a definition for this land use category in the Zoning Code. However, common usage of the term grocery store is a retail store that has a combination of fresh and pre-packaged foods. There is no category on the land use chart that discusses the exclusive sale of fresh foods, vegetables only, meat only or flowers only. A grocery store or food store, as other stores, is inside of a building and the land use is required to meet the development standards found in the Zoning Code. However, as noted above, grocery items can be displayed outside the business establishment if the purchase of such merchandise ordinarily takes place within the building. The City does not regulate the health aspects of food preparation and sales; that is the responsibility of other county, state and federal agencies.

Temporary or permanent, outdoor or indoor **farmer's markets, flea markets, produce markets, bazaars, and open-air markets** currently can legally operate in the city under a variety of options including:

- Farmer's markets on city property in City parks or other government property (Title 5 and/or exempt from the City's zoning regulations)
- Special event permits (Title 5)
- Outdoor amusements (special permit required by Zoning Code)
- Flea Market (Planning Commission Special Permit required by the Zoning Code)

### **Possible Changes to the Zoning Code**

It has been a trend the past several years, from the Federal government down to the local level, to find ways to make fresh and healthy food available to people in their local communities. There are revisions to the City's zoning regulations that could be made to assist people to have greater access to locally grown and fresh food and also clean up portions of the code so it is current with today's standards. Planning staff recommends a work program to amend the Zoning Code in the following areas:

#### **1. Produce Stands**

- a. Currently the Zoning Code land use chart has the category of "produce stand". There is not a definition in the code. Recommend adding a definition that indicates that a produce stand, also known as a farm stand, is a stand used for the sale of agricultural products grown on the subject property.
- b. Allow a produce stand by right in the Agriculture (A) zone for products grown on site if the stand is 120 square feet or less (would not require a building permit). If over 120 square feet a Zoning Administrator's Special Permit would be required.
- c. Require a Zoning Administrator's Special Permit for a produce stand in the Agricultural-Open Space zone. (The A-OS zone allows very few structures, all require some type of special permit review.)

- d. Do not permit a produce stand, as defined, in any other zone.

**2. Growing fruits, nuts and vegetables at the home**

- a. No change is proposed. As noted above, people can grow vegetables at their home in a garden. They can also have a home occupation for an office to run a business which involves the sale of food. The Zoning Code would continue to prohibit the growing of food on a residential piece of property and offering it for sale on the same property. However, if a person chose to supply, by selling or giving away, home-grown produce to an offsite location, such as a local grocer or restaurant or other retail site, the Zoning Code would not regulate. That would not exempt a person growing items at their home, however, from meeting all applicable county, state and federal health regulations if the items were sold or given away off-site. The Zoning Code would still allow the incidental on-site sale of fruits, vegetables, flowers or herbs grown in a community garden at the community garden site.

**3. Growing fruits, nuts and vegetables on commercial and industrial property as landscaping**

- a. No change is proposed. There is no prohibition from locating fruit or nut trees or fruit or vegetable plants in commercial or industrial landscaping as long as the property is kept in a weed-free non-blighted condition per the requirements of Title 8 of the City Code (Health and Safety). The sale of any products grown on the site, however, would still be prohibited. As a business, farming is a permitted use in only the Agriculture and Agriculture-Open Space zone.

**4. Food Store**

- a. The sale for profit of crops, fresh food, vegetables, meat, flowers, in non-residential zones on private property in an indoor "farmer's market" type setting should not be considered differently from the sale of food in a food or grocery store type setting. Under this scenario the sale of food inside a building where there are multiple vendors would be treated the same as the sale of food at, for example, a Save Mart or Raley's and fall under the land use category of food store/grocery/deli. The hours of operation would not be regulated by the Zoning Code so the sale of food could be a seven day a week operation like a traditional grocery store, or take place only a couple of times a week or a month. Food could be sold outside the building if in conjunction with the inside operation and in accordance with the regulations found in Title 5 of the City Code. The definition of a retail food/grocery store could be added to the definition section of the Zoning Code to clarify this use. The sale of the food, of course would still be subject to all applicable federal, state and local health regulations.

**5. Flea Markets and Outdoor Markets**

- a. Traditional grocery stores sell non-food products as well as food. The Zoning Code does have a land use category of flea market, which is defined as an indoor or outdoor “occasional or periodic market...where space is rented by two or more vendors to offer new or used goods, wares, merchandise, or limited services for sale to the general public.” At these venues, often food products are sold along with new goods and old goods. It may be time to consider these indoor markets, bazaars, antique malls, consignment shops and the like as retail uses, falling under retail store zoning and parking regulations.
- b. Outdoor markets on private property, however, could have different land use impacts than indoor retail sales. A definition of outdoor market could be created for the Zoning Code (most probably incorporating elements of the current flea market definition). The outdoor market is a marketplace with individual stalls/vendors. It could include new and used good, fresh food items, pre-packaged food items, flowers. The outdoor market could also be known as a flea market, bazaar, farmer’s market, open-air market, produce market. It could be permanent or occasional. A Zoning Administrator’s Special Permit could be required for the outdoor market use. The permit would regulate/address the issues of:
  - i. Traffic
  - ii. Parking
  - iii. Noise
  - iv. Hours of Operation
  - v. Applicable development standards depending on the location and type of market

**6. Sale of produce at hospitals**

- a. Staff has been approached by the operators of local hospitals who, wanting to promote healthy living, have wanted to have the sale of fresh fruits and vegetables at hospitals during the warm weather months. When staff started to investigate what kind of uses were permitted at a hospital, staff found that retail uses typically found at a hospital, such as the gift shop, restaurant/cafeteria, pharmacy, food card, were not discussed in the current Zoning Code. A hospital use requires a special permit. Staff recommends that the Zoning Code be modified to permit ancillary retail uses in the hospital zone such as those mentioned above.