

A RESOLUTION

23-184

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 9, 2019

To declare the existence of an emergency with respect to the need to amend the Food Production and Urban Gardens Program Act of 1986 to clarify that, under the Urban Farming Land Lease Program, the District may enter into a lease agreement with a qualified applicant to create and maintain an urban farm on vacant land and to authorize the Department of Energy and Environment to waive soil testing requirements for a lessee who agrees not to grow produce in the site soil of the leased property.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Urban Farming Land Lease Emergency Declaration Resolution of 2019”.

Sec. 2. (a) Expanding urban farming in the District will increase the amount of fresh, healthy, locally-grown produce that is available to District residents and create opportunities for employment and entrepreneurship in the agricultural sector.

(b) The Urban Farming Land Lease Program (“Program”), currently operated by the Department of General Services (“DGS”), aims to increase urban farming in the District by allowing urban farmers to lease vacant public land to create and maintain urban farms.

(c) The Fiscal Year 2020 Budget Support Act of 2019 moves implementation of the Program from DGS to the Department of Energy and Environment (“DOEE”).

(d) Recently, there have been significant delays to the implementation of the Program due to the statutory requirements for soil testing. Under current law, lessees must prove that the soil has been tested for, and found to be substantially free of, contamination from arsenic, lead, and heavy metals, regardless of how the lessees intend to use the land.

(e) In March 2019, 2 farmers were awarded leases for public land under the Program; however, neither has received even a draft lease for review because DGS has not yet established soil testing standards. Neither farmer intends to grow food in the site soil, but instead plans to use hydroponic towers, raised beds, or other techniques to grow food. DGS has stated that the leases may be delayed by close to one year as the agency finalizes soil testing standards.

(f) As neither of the lessees’ operations will be affected by contaminated site soil, emergency legislation is needed to authorize DOEE to waive the soil testing requirement when

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the lessee does not use the site soil; provided, that the lease agreement includes a provision stating that the lessee will not plant in or use the site soil on the leased property. This emergency legislation will allow Program lessees, for whom DOEE determines soil testing is unnecessary, to move forward with their leases without further delay while the soil testing standards are being finalized.

(g) Emergency legislation is also needed to clarify changes made to the Program in the Fiscal Year 2020 Budget Support Act of 2019 in order to prevent additional delays in the Program's implementation after it is transferred to DOEE on October 1, 2019. Specifically, emergency legislation is needed to clarify that the land leases would be with the District, not DOEE, and to provide that DOEE will consult with DGS to identify vacant public land.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Urban Farming Land Lease Emergency Amendment Act of 2019 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.