

AN ACT
D.C. ACT 20-599

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2015

To amend the Food Production and Urban Gardens Program Act of 1986 to update existing law pertaining to urban farming, to create an urban farming land leasing initiative for District-owned land, to specify criteria for applicants to such initiative, to exempt property leased pursuant to such initiative from real property and possessory interest taxation, and to create a reporting requirement; to amend Title 47 of the District of Columbia Official Code to provide a 90% tax abatement for private land used, leased, or allowed to be used for an agricultural use under certain conditions, to provide that a tax exempt entity shall not lose its tax exempt status if its grounds are used for urban farming or community gardens, and to provide a tax credit for individual taxpayers, corporations, and unincorporated businesses that donate food grown from urban farming or community gardens.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Urban Farming and Food Security Amendment Act of 2014".

TITLE I – URBAN FARMING INITIATIVE

Sec. 101. The Food Production and Urban Gardens Program Act of 1986, effective February 28, 1987 (D.C. Law 6-210; D.C. Official Code § 48-401 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 48-401) is amended to read as follows:

"Sec. 2. Definitions.

"For the purposes of this act, the term:

"(1) "Community garden" means an area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops for personal or group consumption, donation, or fundraising that is incidental in nature, and that may:

"(A) Include individuals working their own portions of a larger garden, or tending a communal garden together;

"(B) Be located in the ground, on a roof, or within a building; and

"(C) Include common areas such as tool storage sheds.

"(2) "Farm cooperative" means a type of urban farm or farms where production resources for farming such as land and machinery are pooled and jointly held by members.

“(3) “Food” means any substance produced for human consumption and nourishment using horticultural techniques, such as vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, and rootstock.

“(4) “Horticultural techniques” means the scientific, artistic, and technological methods used to cultivate and manage an agricultural space, such as growing from the ground, hydroponics, container farming, vertical farming, or growing in greenhouses or raised beds.

“(5) “Urban agriculture” or “urban farming” means the practice of growing, cultivating, processing, and distributing vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, flowers, and rootstock within the District, including for profit, not for profit, and for educational purposes.

“(6) “Urban farm” means any property used for the growing, cultivating, processing, and distributing of vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, flowers, and rootstock within the District, including for profit, not for profit, and for educational purposes.

“(7) “Vacant lot” means any lot in the District on which there is no lawful structure.”.

(b) Section 3 (D.C. Official Code § 48-402) is amended to read as follows:

“Sec. 3. Urban Farming and Gardens Program established.

“The Mayor shall establish an Urban Farming and Gardens Program, which shall include the development, implementation, and promotion of policies that encourage the donation and cultivation of public and private vacant lots for use as urban farms or community gardens, including:

“(1) The development of a land leasing initiative for publicly-owned vacant lots;

“(2) The inclusion of community gardening projects in the summer employment programs operated by the District government;

“(3) The provision by the Cooperative Extension Service of the University of the District of Columbia of technical assistance and research in the form of educational materials and programs for community gardening, urban farming, and other self-help food production efforts;

“(4) Coordination with the Office of the State Superintendent of Education, both on the use of suitable portions of buildings and grounds for community gardens or urban farming, and on the development of instructional programs in science and gardening that prepare students for related career opportunities such as restaurant produce supply, landscaping, and floral design;

“(5) The encouragement of food buying clubs and produce markets throughout the District to increase the supply of and demand for urban farms; and

“(6) The development of incentives and community outreach efforts to promote the availability of public and private vacant lots for participation in the Urban Farming and Gardens Program.”.

(c) A new section 3a is added to read as follows:

“Sec. 3a. Urban Farming Land Leasing Initiative.

“(a)(1) By February 1, 2015, the Mayor shall identify at least 25 District-owned vacant lots for potential use for urban farming.

“(2) These lots shall:

“(A) Be a minimum of 2,500 square feet; and

“(B) Have no pending agreements for development or sale.

“(b) By February 1, 2015, the Mayor shall establish a land leasing initiative whereby qualified District applicants will be selected to develop certain District-owned vacant lots identified in subsection (a) of this section for urban farming, pursuant to a lease agreement with the District.

“(c) All lease agreements entered into pursuant to subsection (b) of this section shall be for a term of at least 3 years.

“(d) In order to be considered for the land leasing initiative established pursuant to subsection (b) of this section, an applicant shall:

“(1) Be a resident of the District for at least one year before application;

“(2) Have at least one year of experience in agricultural production, as the sole farmer, an employee, a volunteer, or a significant partner of a farmer;

“(3) Not be ineligible for a license or permit pursuant to D.C. Official Code § 47-2862; and

“(4) Have no outstanding violations of District law or regulations on property owned by the applicant.

“(e) A lease agreement pursuant to subsection (b) of this section with an urban farm may permit the sale of the urban farm’s products of urban agriculture on or off the leased land.

“(f) Property leased pursuant to subsection (b) of this section shall be exempt from real property taxation and possessory interest taxation.

“(g) Before the sale or consumption of food grown on property leased pursuant to subsection (b) of this section, the soil shall be tested for contamination.

“(h) By February 1st of each year, the Mayor shall submit an annual report to the Council on the status of the land leasing initiative pursuant to this section which shall include, at a minimum:

“(1) The number of active urban farms;

“(2) The names of the participants in the land leasing initiative;

“(3) Any educational or community programming or events hosted on the leased lots during the preceding calendar year; and

“(4) The amount of produce harvested by the participants during the preceding calendar year.”.

TITLE II – TAX REBATE FOR AGRICULTURAL USE; TAX CREDITS FOR FARM TO FOOD DONATIONS

Sec. 201. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Chapter 8 is amended as follows:

(1) The table of contents is amended by adding a new section 47-868 to read as follows:

“47-868. Reduced tax liability for agricultural uses.”.

(2) A new section 47-868 is added to read as follows:

“§ 47-868. Reduced tax liability for agricultural uses.

“(a) If an owner of real property uses the property, or leases the property or allows it to be used by an unrelated party, for an agricultural use, 90% of the real property tax otherwise levied by § 47-811 on the land value of the relevant portion of the real property shall be abated for each real property tax year that the real property is actually used for an agricultural use; provided, that:

“(1) The soil on the property has been tested and found to be free from contaminants and safe for use in the growth of food fit for human consumption;

“(2)(A) The property must be producing a food commodity or put to another season-appropriate agricultural-related use (such as providing cover cropping, a bee hive, or growing seedlings in a greenhouse) throughout substantially all of the year pursuant to an annual planting plan; and

“(B) The annual planting plan referenced in subparagraph (A) of this paragraph shall be retained by the taxpayer for at least 3 subsequent years and shall be produced in the event of an audit;

“(3) No abatement shall be permitted for abutting real property with common or related ownership that is not leased or used for an agricultural use; and

“(4) In the event that the property is put to agricultural use at some time other than the beginning of the tax year, the 90% tax abatement shall apply for all portions of the first year during which the property is in agricultural use, notwithstanding any other provision of this section.

“(b) An abatement shall be permitted under this section only with respect to a real property tax year during which each of the following requirements is met:

“(1) If the agricultural use involves a lease to a third party, the lease shall have an initial term of at least 3 years;

“(2)(A) If the agricultural use is for urban farming, at least 2,500 square feet of land, which may be comprised of one or more abutting lots, shall be under active use and cultivation during the growing season of either the food commodity produced or other season-appropriate agricultural-related use on the land;

“(B) If the agricultural use is for a community garden, the relevant portion of the property used for a community garden shall be under active use and cultivation during the growing season of either the food commodity produced or other season-appropriate agricultural-related use on the land; and

“(3) The entire portion of the property receiving reduced tax liability shall be dedicated toward an agriculture use.

“(c) The Mayor, pursuant to subchapter I of Chapter 2 of Title 5, may issue rules to implement the provisions of this section.

“(d) A real property owner claiming the tax abatement shall apply for and provide documentation supporting the tax abatement claim in the form and manner as prescribed by the Mayor, and shall be subject to the provisions of §§ 47-1007 and 47-1009.

“(e) For the purposes of this section, the term:

“(1) “Agricultural use” means urban farming, as defined in § 48-401(5), or use as a community garden, as defined in § 48-401(1); and

“(2) “Food commodity” means vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, or rootstock grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1), that are intended to be used as food in its perishable state and are approved by regulatory authorities.”.

(b) Section 47-1005 is amended by adding a new subsection (c) to read as follows:

“(c) This section shall not apply to grounds used by individuals for the purpose of producing food commodities, as defined in § 47-1806.14(f).”.

(c) Chapter 18 is amended as follows:

(1) The table of contents is amended as follows:

(A) A new section designation is added to read as follows:

“47-1806.14. Tax on residents and nonresidents – Credits – Tax credit for farm to food donations.”.

(B) A new section designation is added to read as follows:

“47-1807.12. Tax on corporations and financial institutions – Credits – Tax credit for farm to food donations.”.

(C) A new section designation is added to read as follows:

“47-1808.12. Tax on unincorporated businesses – Credits – Tax credit for farm to food donations.”.

(2) A new section 47-1806.14 is added to read as follows:

“§ 47-1806.14. Tax on residents and nonresidents – Credits – Tax credit for farm to food donations.

“(a) For tax years beginning on or after January 1, 2015, a taxpayer may claim a nonrefundable credit against taxes imposed by this subchapter for food commodity donations made during the tax year to a District of Columbia food bank or shelter recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

“(b)(1) The credit claimed in subsection (a) of this section shall equal 50% of the value of the contribution and shall not exceed \$2,500 per taxpayer per tax year.

“(2) If a taxpayer elects to claim the credit for a contribution, no deduction under § 47-1803.03(b) shall be allowed on account of the contribution.

“(c) A donated food commodity shall not be damaged, out-of-condition, nor of a condition that would be considered unfit for human consumption under District or federal law or regulations.

“(d) If the amount of a tax credit under this section exceeds a taxpayer’s tax liability under this chapter for a tax year, the amount of the tax credit that exceeds the taxpayer’s income liability may be carried forward for a period not to exceed the following 5 tax years.

“(e) A taxpayer claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

“(f) For the purposes of this section, the term “food commodity” means vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, or rootstock grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1), that are

intended to be used as food in its perishable state and are approved by regulatory authorities.”.

(3) A new section 47-1807.12 is added to read as follows:

“§ 47-1807.12. Tax on corporations and financial institutions – Credits – Tax credit for farm to food donations.

“(a) For taxable years beginning on or after January 1, 2015, any qualified incorporated business under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter equal to 50% of the value of food commodity donations made during the tax year to a District of Columbia food bank or shelter recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

“(b)(1) The credit shall not exceed \$5,000 per corporation per tax year and shall not reduce the minimum tax liability under § 47-1807.02(b).

“(2) If the corporation elects to claim the credit for a contribution, no deduction under § 47-1803.03(a)(8) shall be allowable on account of the contribution.

“(c) A donated food commodity shall not be damaged, out-of-condition, nor of a condition that would be considered unfit for human consumption under District or federal law or regulations.

“(d) A corporation claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

“(e) For the purposes of this section, the term “food commodity” means vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, or rootstock grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1), that are intended to be used as food in its perishable state and are approved by regulatory authorities.”.

(4) A new section 47-1808.12 is added to read as follows:

“§ 47-1808.12. Tax on unincorporated businesses – Credits – Tax credit for farm to food donations.

“(a) For taxable years beginning on or after January 1, 2015, any qualified unincorporated business under § 6-1504 may claim a nonrefundable credit against taxes imposed by this subchapter equal to 50% of the value of food commodity donations made during the tax year to a District of Columbia food bank or shelter recognized as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

“(b)(1) The credit shall not exceed \$5,000 per unincorporated business per tax year and shall not reduce the minimum tax liability under § 47-1808.03(b).

“(2) If the unincorporated business elects to claim the credit for a contribution, no deduction under § 47-1803.03(a)(8) shall be allowable on account of the contribution.

“(c) A donated food commodity shall not be damaged, out-of-condition, nor of a condition that would be considered unfit for human consumption under District or federal law or regulations.

“(d) An unincorporated business claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

“(e) For the purposes of this section, the term “food commodity” means vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, or rootstock grown in the District by urban farming, as defined in § 48-401(5), or by a community garden, as defined in § 48-401(1), that are intended to be used as food in its perishable state and are approved by regulatory authorities.”.

TITLE III – GENERAL PROVISIONS

Sec. 301. Non-liability of the District.

Nothing in this act shall be construed to create a governmental liability or cause of action against the District related to the safety of food purchased on District lands by non-governmental entities.

Sec. 302. Applicability.

(a)(1) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(2) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(3)(A) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(B) The date of publication of the notice of the certification shall not affect the applicability of this act.

(b) Subject to subsection (a) of this section,

(1) Section 201(a) shall apply to tax years beginning after September 30, 2015.

(2) Section 201(c) shall apply to tax periods beginning after December 31, 2015.

Sec. 303. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 304. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

A handwritten signature in blue ink, appearing to read "Muriel M. Hanft", written over a horizontal line.

Chairman
Council of the District of Columbia

A handwritten signature in black ink, appearing to read "M. Anthony B. Bowser", written over a horizontal line.

Mayor
District of Columbia

APPROVED
January 26, 2015



**COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004**

Docket No. **B20-677**

☒ ITEM ON CONSENT CALENDAR

☒ ACTION & DATE

ADOPTED FIRST READING, 11/18/2014

☒ VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

☐ ROLL CALL VOTE – Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Catania	X				McDuffie	X			
Alexander	X				Cheh	X				Orange	X			
Barry	X				Evans	X				Wells	X			
Bonds	X				Graham	X								
Bowser	X				Grosso	X								

X – Indicate Vote

AB – Absent

NV – Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council

Date

☐ ITEM ON CONSENT CALENDAR

☒ ACTION & DATE

ADOPTED FINAL READING, 12/17/2014

☒ VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

☐ ROLL CALL VOTE – Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Cheh	X				Orange	X			
Alexander	X				Evans	X				Wells	X			
Bonds	X				Graham	X								
Bowser	X				Grosso	X								
Catania	X				McDuffie	X								

X – Indicate Vote

AB – Absent

NV – Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council

Date

☐ ITEM ON CONSENT CALENDAR

☐ ACTION & DATE

☐ VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

☐ ROLL CALL VOTE – Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson					Cheh					Orange				
Alexander					Evans					Wells				
Bonds					Graham									
Bowser					Grosso									
Catania					McDuffie									

X – Indicate Vote

AB – Absent

NV – Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council

Date