

STATE OF NEW YORK

9928

IN SENATE

October 9, 2024

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the agriculture and markets law, in relation to establishing the "garden protection act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "garden
2 protection act".

3 § 2. Legislative purpose. The purpose of this act is to encourage and
4 protect the sustainable cultivation of fresh produce at all levels of
5 production, including on residential property for personal consumption
6 or non-commercial sharing.

7 § 3. The article heading of article 2-C of the agriculture and markets
8 law, as added by chapter 862 of the laws of 1986, is amended to read as
9 follows:

COMMUNITY AND HOME GARDENS

10
11 § 4. Section 31-g of the agriculture and markets law is amended by
12 adding two new subdivisions 7 and 8 to read as follows:

13 7. "Home vegetable garden" shall mean any garden located on residen-
14 tial property where vegetables, herbs, fruits, flowers, pollinator
15 plants, leafy greens, or other edible plants are cultivated.

16 8. "Native plant garden" or "pollinator garden" shall mean any garden
17 located on residential property where plants native to the state,
18 composed of a variety of nectar and pollen-rich flowers with a wide
19 range and variety of shapes, sizes, and colors, that blossom at various
20 times throughout the year, are cultivated.

21 § 5. The agriculture and markets law is amended by adding a new
22 section 31-k to read as follows:

23 § 31-k. Right to cultivate home vegetable, native plant, and pollina-
24 tor gardens. 1. Notwithstanding any other law, rule or regulation, any
25 person may cultivate home vegetable gardens, native plant gardens,
26 and/or pollinator gardens on their own property, or on the private prop-
27 erty of another with the permission of the owner of such property, in
28 any county, municipality, or other political subdivision of this state.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 2. A municipality in the state shall not regulate gardens in a manner
2 inconsistent with this section.

3 3. This section shall not preclude the adoption of a rule, regulation
4 or local ordinance of general nature that does not specifically regulate
5 home vegetable gardens, native plant gardens, and/or pollinator gardens,
6 including, but not limited to, regulations and ordinances relating to
7 height, setback, water use, fertilizer use, or control of invasive or
8 unlawful species, provided that any such rule, regulation or ordinance
9 does not have the effect of precluding home vegetable gardens, native
10 plant gardens, and/or pollinator gardens.

11 § 6. This act shall take effect immediately.