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:

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

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

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

COMMUNITY **AND HOME** GARDENS

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

7. "Home vegetable garden" shall mean any garden located on residential property where vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, or other edible plants are cultivated.

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

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

§ 31-k. Right to cultivate home vegetable, native plant, and pollinator gardens. 1. Notwithstanding any other law, rule or regulation, any person may cultivate home vegetable gardens, native plant gardens, and/or pollinator gardens on their own property, or on the private property of another with the permission of the owner of such property, in 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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2. A municipality in the state shall not regulate gardens in a manner inconsistent with this section.

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

§ 6. This act shall take effect immediately.