

# STATE OF NEW YORK

2122--A

2025-2026 Regular Sessions

## IN ASSEMBLY

January 15, 2025

Introduced by M. of A. KELLES -- read once and referred to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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, and may also include other  
21 native or supportive plants, including those without flowers.

22 § 5. The agriculture and markets law is amended by adding a new  
23 section 31-k to read as follows:  
24

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

LBD03133-03-5

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

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

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

17 § 6. This act shall take effect immediately.