



February 18, 2025

Iowa Senate Local Government Committee
1007 East Grand Avenue
Des Moines, Iowa
50319

RE: SF 161 - A bill for an act prohibiting the regulation of certain residential gardens by state agencies and local governments.

Position: Amend SF 161

Dear Chairperson Webster, Vice Chairperson Klimesh, Ranking Member Weiner, and the esteemed Delegates of the Iowa Senate Local Government Committee:

Community Associations Institute (CAI) is an international membership organization dedicated to building better communities. CAI provides information, education, and resources to the homeowner volunteers who govern communities and the professionals who support them and advocates for and represents the 79.1 million people living and working in America's 369,000 community associations (homeowners associations, condominiums, and housing cooperatives).

On behalf of CAI and approximately 295,000 Iowans living in 121,700 homes in nearly 3,000 community associations across the Hawkeye State, thank you for the opportunity to share comments related to [SF 161 - A bill for an act prohibiting the regulation of certain residential gardens by state agencies and local governments](#).

CAI seeks amendments to SF 161 in order to preserve the ability of community associations to effectively self-govern. An association should be able to develop reasonable rules and regulations regarding gardening and landscaping practices. Please refer to [HSB 162 - A bill for an act relating to county and city regulation of accessory dwelling units](#) as an example of legislation introduced this session in Iowa that contains language to allow for self-governance by community associations by preserving their ability to exercise their contractual authority to regulate the placement of accessory dwelling units.

Governance should occur at the lowest possible level. Legislatures and regulatory agencies should acknowledge the right of self-determination by owners who elect volunteers and have a vested interest in their own communities. CAI is excited to support this bill with our recommended amendments adopted to maintain self-governance of community associations throughout Iowa. (See Appendix A for recommended language). For more information, please review [CAI's public policy on Government Regulations of Community Associations](#).

Please contact CAI's Government & Public Affairs team at government@caionline.org to discuss these comments or any policy issues impacting community association residents in Iowa.



Respectfully yours,

Phoebe Neseth, Esq.
Senior Director, Government and Public Affairs
Community Associations Institute (CAI)
pneseth@caionline.org | (703) 970-9256

Appendix A

Senate File 161 - Introduced SENATE FILE 161 BY WESTRICH

A BILL FOR An Act prohibiting the regulation of certain residential gardens by state agencies and local governments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 137H.1 Short title. This chapter shall be known and may be cited as the "Freedom to Garden Act".

Sec. 2. NEW SECTION. 137H.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Garden food" means vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, and other edible plants.
2. "Local government" includes but is not limited to a county, special district, township, or city as provided in 11 Title IX.
3. "Residential garden" means any plot of ground or elevated soil bed located as part of a yard attached to a residential property where garden food is produced and harvested primarily for the benefit of the individual who owns or leases the residential property or the members of the individual's family, household, or guests.
4. "Residential property" means real property consisting of not more than two family dwelling units, at least one of which is occupied as a principal place of residence.
5. "Sale" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration, including but not limited to any such transfer, exchange, or barter on a subscription basis.
6. "State agency" means a unit of state government, which is an authority, board, commission, committee, council, department, or independent agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5.



Sec. 3. NEW SECTION. 137H.3 General principle — public policy.

1. As a general principle, each individual has a natural, inherent, and unalienable right to save and exchange seeds and the right to grow, raise, harvest, produce, and consume the food of the individual's own choosing for the individual's own nourishment, sustenance, bodily health, and well-being, as long as the individual does not commit trespass, theft, poaching, or other abuse of private property rights, public land, or natural resources.

2. The public policy of this state is to recognize and encourage the development and expansion of the sustainable use of residential gardens, including the use of such properties to produce and harvest garden food.

Sec. 4. NEW SECTION. 137H.4 Residential garden regulation — prohibition.

A state agency or local government shall not adopt or continue in effect any regulation, including in the form of a rule, ordinance, or resolution, that prohibits an individual from establishing, maintaining, or benefiting from a residential garden located on residential property owned or leased by that individual. A regulation in violation of this section is void and unenforceable.

Sec. 5. NEW SECTION. 137H.5 Applicability.

This chapter does not apply to any of the following:

1. The use of residential property located in community associations or otherwise governed by deed restriction, covenant, or agreement restricting the use of land.
2. The use of residential property, if the titleholder or leaseholder of the residential property is a state agency or local government.
3. The use of residential property governed by a contract entered into by the titleholder or lessee of the residential property and a state agency or local government.
4. Garden food produced for purposes of sale.
5. A regulation adopted in compliance with any of the following:
 - a. Chapter 190C
 - b. Chapter 199, 200, 200A, or 206.
 - c. Chapter 317.
6. A plant growing in easement, in a ditch, or in a location that obstructs traffic, including a view of traffic.
7. A plant that invades onto a neighbor's property.



8. A plant used to produce a controlled substance as defined in section 124.101, a precursor substance as described in section 124B.2, or cannabis.

9. A plant used to produce a substance used for medical or psychological purposes

10. A plant that is competitive, persistent, or pernicious, and that may directly or indirectly cause damage to a crop or other useful plant, or that may injure an animal or fish, that may obstruct irrigation or drainage, or that poses a threat to the public health.

11. A practice found by a court to be a public or private nuisance, or that otherwise interferes with another person's legal enjoyment of property.

12. A regulation that does not target the use of a residential garden or a gardening practice, even though the regulation may impact upon its use, including but not limited to the construction and use of a structure, equipment, setback requirements, water use restrictions, or public safety.

Sec. 6. Section 331.301, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. A county shall not adopt or continue in effect any regulation, including in the form of an ordinance or resolution, that prohibits an individual from establishing, maintaining, or benefiting from a residential garden as provided in chapter 137H.

Sec. 7. Section 364.3, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. A city shall not adopt or continue in effect any regulation, including in the form of an ordinance or resolution, that prohibits an individual from establishing, maintaining, or benefiting from a residential garden as provided in chapter 137H.

EXPLANATION The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

GENERAL. This bill prohibits a state agency or local government from adopting or continuing in effect any regulation that prohibits an individual from establishing, maintaining, or benefiting from a residential garden located on residential property owned or leased by that individual. Any such regulation is void and unenforceable. Under the bill, "residential property" includes real property consisting of not more than two family dwelling units.

RESTRICTIONS. In order to be protected from regulation, a residential garden must meet certain requirements. The garden must be used to produce vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, and other edible plants and must be part of a yard attached to an occupied residential property. The garden food must be produced and harvested primarily for the benefit of the individual who owns or leases the residential property or the members of the individual's family, household, or guests.

APPLICABILITY. The protection from regulation does not apply in a number of circumstances including to the use of residential property if the state agency or local government is a titleholder or leaseholder,



or if the management of the residential property is governed under a contract with the state agency or local government. The protection does not apply if the garden food is produced for purposes of sale. The protection does not apply to a number of state regulations in effect that govern organic food production, including a number of regulations administered and enforced by the department of agriculture and land stewardship relating to seeds, fertilizers and soil conditioners, or pesticides (although certain local government preemption statutes exist for these items), or to the control of noxious weeds. The protection does not apply to a plant that is growing in an easement or ditch, that obstructs traffic, or that invades neighboring property. Finally, the protection does not apply to a number of plant species, including a plant used to produce a controlled substance or used to produce a medical or psychological substance; to a plant that may cause damage to another plant or an animal, or that obstructs water flow or poses a public health threat; to a practice that constitutes a public or private nuisance; or to a regulation that does not target the use of a residential garden, even though the regulation may impact upon the garden's use.