

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

H.537

An act relating to the right to grow vegetable gardens

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 27A V.S.A. § 1-204 is amended to read:

§ 1-204. PREEXISTING COMMON INTEREST COMMUNITIES

(a)(1) Unless excepted under section 1-203 of this title, the following sections and subdivisions of this title apply to a common interest community created in this State before January 1, 1999: sections 1-103, 1-105, 1-106, 1-107, 2-103, 2-104, and 2-121; subdivisions 3-102(a)(1) through (6) and (11) through (16); and sections 3-111, 3-116, 3-118, 4-109, and 4-117 to the extent necessary to construe the applicable sections. The sections and subdivisions described in this subdivision apply only to events and circumstances occurring after December 31, 1998, and do not invalidate existing provisions of the declarations, bylaws, plats, or plans of those common interest communities.

\* \* \*

(3) Unless excepted under section 1-203 of this title, section 3-125 of this title shall apply to all common interest communities that contain 12 or more units that may be used for residential purposes created in this State on or before January 1, 2011. Section 3-125 applies only to events and circumstances occurring after June 30, 2026, and does not invalidate existing

1 provisions of the declarations, bylaws, plats, or plans of those common interest  
2 communities.

3 \* \* \*

4 Sec. 2. 27A V.S.A. § 3-125 is added to read:

5 § 3-125. VEGETABLE GARDENS

6 (a) As used in this section, “vegetable garden” means a plot of land where a  
7 person cultivates plants for personal consumption or donation and the land and  
8 activities on it are not subject to the required agricultural practices. A  
9 “vegetable garden” does not include cultivation of cannabis or any unlawful  
10 crops or substances.

11 (b)(1) Any covenant, restriction, or condition contained in any deed,  
12 contract, security instrument, or other instrument affecting the transfer or sale  
13 of any interest in a common interest community, and any provision of a  
14 governing document associated with a common interest community, such as a  
15 declaration, bylaw, or rule, that either effectively prohibits or unreasonably  
16 restricts the installation or use of a vegetable garden in areas designated for  
17 exclusive use of the unit owner or is in conflict with this section is void and  
18 unenforceable.

19 (2) If approval is required for the installation of a vegetable garden, the  
20 application for approval shall be processed and approved by the association in  
21 the same manner as an application for approval of an architectural modification

1 to the common interest community and shall not be intentionally avoided or  
2 delayed. The approval or denial of an application shall be in writing. If an  
3 application is not denied in writing within 90 days from the date of receipt of  
4 the application, the application shall be deemed approved, unless that delay is  
5 the result of a reasonable request for additional information.

6 (3) The unit owner and each successive owner shall be responsible for  
7 all of the following:

8 (A) costs for the installation, maintenance, repair, removal, or  
9 replacement of the vegetable garden;

10 (B) costs for damage to any common element or limited common  
11 element resulting from installation, maintenance, repair, removal, or  
12 replacement;

13 (C) costs for water or electricity associated with the use of the  
14 vegetable garden; and

15 (D) disclosing to prospective buyers of the unit the existence of any  
16 vegetable garden and the related responsibilities of the unit owner under this  
17 section.

18 (c) This section shall not prohibit an association from enacting bylaws or  
19 rules that reasonably restrict the installation or use of a vegetable garden in an  
20 area of the common interest community designated for exclusive use of the  
21 unit owner, including:

- 1           (1) regulating the erection and installation of permanent structures;  
2           (2) requiring that a vegetable garden be maintained in good condition if  
3 visible from the street faced by the lot or from an adjoining lot;  
4           (3) requiring that dead plant materials and weeds are regularly cleared  
5 from the vegetable garden, with the exception of straw, mulch, compost, and  
6 other organic material intended to encourage vegetation and retention of  
7 moisture in the soil;  
8           (4) restricting the use of property owned in common and not for the  
9 exclusive use of a unit owner; and  
10          (5) prohibiting the use of pesticides, as that term is defined in 6 V.S.A.  
11 § 1101, or any other synthetic chemical product commonly used in the growing  
12 of plant crops.  
13          (d)(1) An association may provide written notice to a unit owner of a  
14 violation of the bylaws or rules adopted pursuant to this section and provide  
15 the unit owner not less than 10 days to correct the violation.  
16          (2) An association may take steps to correct a violation that remains  
17 uncorrected after the 10-day period provided to the unit owner in subdivision  
18 (1) of this subsection.  
19          (3) Any costs to the association necessary for correcting a violation may  
20 be charged back to the unit owner.

1       Sec. 3. 9 V.S.A. § 4456c is added to read:

2       § 4456c. VEGETABLE GARDENS

3           (a) As used in this section, “vegetable garden” means the outdoor  
4       cultivation of plants for personal consumption or donation and the land and  
5       activities on it are not subject to the required agricultural practices. A  
6       “vegetable garden” does not include cultivation of cannabis or any unlawful  
7       crops or substances.

8           (b)(1) A landlord shall permit a tenant to grow a vegetable garden in  
9       portable containers approved by the landlord in the tenant’s rented space.

10          (2) A landlord may authorize a tenant to install a vegetable garden, other  
11       than that which is contained in portable containers, on the rental property.

12          (c) A landlord may place reasonable restrictions on the installation and use  
13       of vegetable gardens, including:

14           (1) requiring that a vegetable garden be maintained in good condition;

15           (2) requiring that dead plant materials and weeds are regularly cleared  
16       from the vegetable garden, with the exception of straw, mulch, compost, and  
17       other organic material intended to encourage vegetation and retention of  
18       moisture in the soil;

19           (3) requiring that the vegetable garden does not interfere with the  
20       maintenance of the rental property;

1           (4) requiring that the placement of the vegetable garden does not  
2           interfere with a tenant parking space or create a health or safety hazard, block  
3           doorways, or interfere with walkways or utility services or equipment; and

4           (5) prohibiting the use of pesticides, as that term is defined in 6 V.S.A.  
5           § 1101, or any other synthetic chemical product commonly used in the growing  
6           of plant crops.

7           (d) A landlord may require a tenant to pay for any excess water, electricity,  
8           and waste collection bills arising from the tenant's personal vegetable garden.

9           (e)(1) A landlord may charge a security deposit for the installation of a  
10          vegetable garden under subdivision (b)(2) of this section for the purpose of  
11          securing against damages or removal of the vegetable garden upon the  
12          termination of the rental agreement.

13          (2) The provisions in section 4461 of this title shall apply to a security  
14          deposit received under this subsection.

15          Sec. 4. EFFECTIVE DATE

16          This act shall take effect on passage.