

**Senate Local Government & Housing**

**03/28/2023 02:00 PM**

**SB23-178 Water-wise Landscaping In HOA Communities**

**Typed Text of Testimony Submitted**

<b>Name, Position, Representing</b>	<b>Typed Text of Testimony</b>
Cylinda Mobley Questions Only themselves	The opportunity to have gardens in front and visible side yards should be stricken from this bill. HB22-1137 has already made it difficult to enforce general compliance landscape issues with the 30 day wait period between compliance correspondence. Adding the additional burden to the inspector to determine at what period of growth stage vegetation is in or determining whether items are dead, need weeding, or the like isn't a compliance issue that should fall on the HOA. More neighbors will complain about unkept gardens and no ability to enforce except every 31-37 days per HB22-1137. Anyone, anywhere can build a garden in their backyard and not have to burden the HOA with building these in visible front and side yards.

TO: Senate Committee on Local Government & Housing

FROM: Amanda Slover

DATE: March 20, 2023

RE: Testimony in support of SB23-178: Water-wise Landscaping in Homeowner's Association Communities

I am Amanda Slover, a trained horticulturist and small-scale urban food producer in Aurora, Colorado. I have managed three community gardens for Denver Urban Gardens, most currently Nome Park Community Garden. In response to the pandemic, I initiated Aurora Seed Farm (ASF), the mission of which is to provide acclimatized seeds to home and community gardeners of Aurora, Colorado. ASF is the primary contributor to the Aurora Seed Library. Aurora Seed Farm upholds the values of food sovereignty, local food production, and community interdependence through growing culturally relevant food and seed for low or no cost. ASF provides free organic gardening classes to increase Aurora's gardeners and gardening skills.

Senate Bill 23-178 seeks to end the prohibition of vegetable gardening within HOAs across the state. Homeowners deserve the right to plant, maintain, and harvest vegetables and fruits on their property without restrictions from their HOA. Vegetable gardens offer many physical and mental health benefits, as well as economic and environmental benefits (such as lower household food costs and water conservation, respectively). Vegetable gardens are also aesthetically pleasing and add to the beauty of a neighborhood or community.

Vegetable gardens use less water than cool-season turfs, such as Kentucky Bluegrass. Forty percent (40%) of the water Aurora uses is applied to outdoor landscapes, much of which is ornamental turf. Denver Water published an article in 2015, illustrating findings that "The gardens use an average of 11 gallons of water per square foot annually, compared with traditional bluegrass lawns, which can use up to 18 gallons. The translation: If you convert a 300-square-foot section of your lawn to a veggie garden, you could save 2,100 gallons of water annually." In residential landscapes, utilizing water for food production is better stewardship of this precious resource than the mono-crop of non-native turf (Kentucky Bluegrass) which has little benefit to native pollinators. With the impending crisis of water shortages across the West and our state, coupled with rising food costs, it makes sense to eliminate turf grass and permit homeowners to grow food if they choose.

Mental and physical health benefits are numerous and the information to demonstrate these findings are found everywhere from the United Kingdom's National Health Services to the U.S. Extension offices of multiple states as well as the Mayo Clinic. Aside from the health benefits of a diet that includes nutritious fresh food, gardening can reduce depression, anxiety, stress, and dementia as well as increase physical activity. Children who garden with their families grow up to be adults who garden. Accessing

gardening in the home landscape has the potential to gift the legacy of health, well-being, and food access.

Food insecurity, economic hardships, and financial emergencies within households often result in less food consumed which is often of lower nutritional value. (Galhena, D.H., Freed, R. & Maredia, K.M. Home gardens: a promising approach to enhance household food security and wellbeing. *Agric & Food Secur* 2, 8 (2013) Removing the barrier to home vegetable production increases access to vital vitamins and minerals.)

Contrasted with nonnative Kentucky Bluegrass, vegetable gardening boosts biodiversity in the landscape. The variety, shapes, and sizes of flora in a home garden, especially when coupled with native plants, will boost population numbers of insects and birds by creating habitat and food for them as well as human beings. Insects, especially the larvae of butterflies and moths, are the food for many terrestrial bird species. Additionally, many other animals like spiders, reptiles, and amphibians depend on insects for food (Doug Tallemey, Home Grown National Park website.)

I urge you to vote yes on Senate Bill 23-178 to improve the lives and health of the homeowners, their families, and the natural world as well as steward our limited water resources.

Sincerely,



Amanda Slover

Aurora, CO 80012

TO: Senate Committee on Local Government & Housing

FROM: Caitlin Matthews

DATE: March 27, 2023

RE: Testimony in support of SB23-178: Water-wise Landscaping In Homeowners' Association Communities

My name is Caitlin Matthews. I am the Food Systems and Policy Director for Food Justice NW Aurora. Food Justice NW Aurora is a community-based organization working to advance food and agriculture strategies that increase local food production; improve access to nutritious and culturally important foods; support local food and agriculture entrepreneurs; promote cross-cultural and intergenerational sharing; and care for and protect land, air, water, and beings. Due to its alignment with our organization's mission, Food Justice NW Aurora supports Senate Bill 178.

In our September 2022 survey of residents in NW Aurora, nearly 70% of respondents indicated that cost or affordability was a barrier for accessing culturally important fresh foods, and nearly one third of respondents suggested that increasing local food production would improve community access to fresh foods (27% of responses). Much of this local food could be cultivated in the front, side, and back yards of privately owned homes at a sliver of the cost of purchasing these foods in the store. However, currently many HOAs have partial or complete bans on vegetable gardens in the front, back, and/or side yards of dwellings within the association because they do not conform to aesthetic or design standards. This creates barriers for homeowners to plant, maintain, and harvest their own fruits and vegetables without facing disincentives such as a fine or notice of violation. Some homeowners try to plant vegetables incognito or under the radar in hopes they do not get caught and penalized by their HOA.

In February of this year, the City of Aurora announced that reservoir levels are projected to be at only 48% capacity by mid-April, and there will be Stage 1 water availability restrictions this year - meaning a reduced number of days you can water a lawn. The water authorities in Aurora and Denver estimate that 40-50% of household water goes to outdoor uses such as non-native ornamental lawns.<sup>1,2</sup> Denver Water and Denver Urban Gardens collected and published data demonstrating that vegetable gardens reduce water use by 40% in comparison to traditional bluegrass lawns.<sup>3</sup> This year's water crisis in Aurora is coupled with persistently high rates of food insecurity, which have been exacerbated by the pandemic and recent inflation. With this bill, we have the opportunity to remove unnecessary and unreasonable barriers to residents growing food at their homes.

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<sup>1</sup>Aurora Water. (2015). 2015 Municipal Water Efficiency Plan. Retrieved March 27, 2023 from [https://cdns5-hosted.civicleve.com/UserFiles/Servers/Server\\_1881137/File/Residents/Water/Water%20System/Aurora%20Water%20Facts/Final\\_2015\\_ConservationPlan\\_update\\_3.18.16.pdf](https://cdns5-hosted.civicleve.com/UserFiles/Servers/Server_1881137/File/Residents/Water/Water%20System/Aurora%20Water%20Facts/Final_2015_ConservationPlan_update_3.18.16.pdf)

<sup>2</sup> Swanson, C. (2023, March 27). Water-Conscious Lawns: Native Colorado plants hard to come by. Retrieved March 27, 2023 from [https://enewspaper.denverpost.com/html5/reader/production/default.aspx?pubname=&edid=3002a6dc-9dec-4d6e-9705-8c30e1da0ee2&utm\\_email=145B6451444D34A17504452404](https://enewspaper.denverpost.com/html5/reader/production/default.aspx?pubname=&edid=3002a6dc-9dec-4d6e-9705-8c30e1da0ee2&utm_email=145B6451444D34A17504452404)

<sup>3</sup> Kirk, J. (2015, September 15). Save water. grow vegetables instead of grass. Denver Water. Retrieved March 13, 2023, from <https://www.denverwater.org/tap/save-water-grow-vegetables-instead-of-grass#:~:text=The%20gardens%20use%20an%20average,2%2C100%20gallons%20of%20water%20annually.>

I urge you to vote YES on Senate Bill 178 to improve water conservation and access to fresh food by removing HOA restrictions that prevent people from growing and harvesting their own food. Thank you.

Caitlin Matthews  
Food Systems and Policy Director  
Food Justice NW Aurora  
Aurora, CO 80010

## **In Support of SB 23-178 “Water-wise Landscaping in Homeowner's Association Communities”**

Esteemed members of the Senate Local Government & Housing Committee:

My name is Salvador Gonzalez, with [Food Justice Northwest Aurora](#) and a resident of Colorado for 30 years. Food Justice NW Aurora is building a multicultural, intergenerational, and intersectional movement for food justice and food sovereignty to transform our local food system in NW Aurora, Colorado by convening community and strive to create a just, sustainable, and complete food environment by mobilizing people, organizations, and businesses; building community wealth; facilitating and nurturing strategic partnerships; and advocating for policy and systems changes. Food Justice Northwest Aurora is in support of SB 23-178 for **Water-wise Landscaping in Homeowner's Association Communities**.

At a time when many friends and neighbors are experiencing hunger and food insecurity at unprecedented rates in our country, this particular bill addresses a need to update our legal system and empower individuals who are seeking to improve their own lives and live more sustainable lifestyles: to ensure homeowner's property rights in designing landscapes of their choice including growing food for consumption and water-wise gardens anywhere on the owner's property. The ability to grow food without being subjected to regulations by HOA's prohibiting gardens for food consumption or plants outside of the allowed criteria. There is no reason why the HOA industry's interests should triumph over those of individual property rights, especially on such a common sense measure.

In my many years as an organizer and activist of local food systems, I have experienced how family and friends grow food hidden from sight as to avoid being fined or penalized by HOAs. Let me be more candid: In America, today, citizens are afraid to grow their own food on their own property. Imagine growing food for consumption and being subjected to losing your home because you are breaking the rules. This impacts many Coloradans, 40% of which live in HOAs, and are subjected to such outdated regulations.

It is time to support homeowners in creating self-sustaining lifestyles and systems of self-help and not continue to allow HOA's to suppress individuals property rights, cause harm to the environment, and community members' health. We live in a time that faces multiple crises ranging from climate change, pandemics, to devastation of economic systems at the expense of the working and middle class families. Our society is built on values of self-help and betterment of the individual and created a better quality of life for themselves and their family. Homeowners who are private property owners should be able to feed themselves if they choose to by being able to design, implement, and care for gardens that meet those needs. Even more, the process of carbon sequestration, is a direct action to combating the effects of climate change. Continuing to subject homeowners under HOAs to conform curb appeal aspects such as, maintaining a green lawn, requires the continued use of fertilizers that end up in our waterways and consume swaths of the watershed, both of which are now unsustainable.

SB23-178 would empower homeowners to design landscapes based on their needs and desires and not that of HOAs. This outdated regulation on the ability to grow plants, gardens, or design scapes on the choices of homeowners is overdue and I urge your support for this measure.

March 28, 2023

The Honorable Senator, Chair, Sonya Jaquez Lewis  
The Honorable Senator, Vice Chair, Tony Exum  
The Honorable Senator Julia Gonzales  
The Honorable Senator Byron Pelton  
The Honorable Senator Rod Pelton  
The Honorable Senator Janice Rich  
The Honorable Senator Dylan Roberts  
Senate Local Government & Housing Committee  
State of Colorado  
State Capitol Building  
200 East Colfax, SCR 352  
Denver, CO 80203

Honorable Members of the Senate Local Government & Housing Committee:

The Board of Douglas County Commissioners respectfully submits our support for Senate Bill 23-178, *Reducing barriers to water-wise landscaping in HOAs*.

We support SB23-178 as it will reduce barriers to homeowners in Colorado – 60% of whom reside in an HOA – who wish to replace all or part of their grass lawns with more water-wise and eco-friendly landscaping, while working with their HOAs within the confines of required, pre-approved, water-wise landscape designs.

We recognize that conserving water is vital for all Colorado communities, *and* that homeowners need an easier path toward water-wise and ecologically beneficial landscapes.

Your support of this bill encourages a mutually beneficial partnership between an HOA and homeowners, a shared-responsibility approach to water conservation and ecologically beneficial landscape.

We respectfully request your support of SB23-178. In addition, we support a potential technical amendment that addresses some ambiguity in relation to a sunset date for an augmentation plan related to rainwater harvesting currently before water court.

We would prefer to be with you in the room today, however the timing of your committee meeting conflicts with the timing of our previously scheduled semi-monthly Business Meeting. Thank you for the opportunity to submit our testimony electronically.

Respectfully,

  
Abe Laydon, Chair  
Board of Douglas County Commissioners

Abe Laydon  
Commissioner District I

George Teal  
Commissioner District II

Lora L. Thomas  
Commissioner District III

Dear Committee Members

I am senior HOA Board member of the largest HOA in Colorado Springs. I am also practicing engineer specializing in civil engineering to include stormwater drainage.

**I am asking for consideration and an amendment be made to accommodate smaller suburban residential lots in HOAs to not allow gardens and bare furrowed soil in front yards to prevent soil erosion, lack of proper groundcover, inability to maintain landscaping and negative maintenance impacts. Open gardens with bare soil should be behind a fence in the rear yard.**

I've read through the bill and it's a good bill overall. I've been pushing xeriscaping hard in my HOA for the last 7 years and trying to get the owners to come off replacing it with sod. Some still like it though due to lower initial cost and sometimes appearances. Builders are still putting in sod often right on top of hard packed clay.

When the State law changed back in 2011 to prohibit HOA from mandating sod grass that spurred some good changes toward xeriscaping

I had one small ask for the bill that I'm trying to avoid issues with going forward. Maintenance of the front yard is a concern and while we have 80%+ compliance with front yard and xeriscaping I do have some issues with owners and front yards that have turned to or remain bare dirt when their yard and sod disappear after they have let it go.

All of our front yards are pretty small <400sqft at the largest 1000sqft and all of them with 5-10% slope in the residential suburban zone. None of our front yards are flat. They all drain to the street.

The one issue is the gardens in the front yard and preventing the front yard being turned into bare dirt. City code requires that yard be landscaped and cannot be bare dirt. Our HOA covenants require that as well. We have always had gardens allowed in the side and rear yards behind a fence with raised/hot boxes and greenhouses. The front yards don't support this. I have never had an owner request a garden in their front yard and I have reviewed over 1800 architectural requests in the last 7 years.

Can we make the small changes of having gardens in the rear yard of residential suburban HOAs. Our lots are small 3500-7000sqft average. In order to maintain proper landscaping, ground cover and prevent unintended erosion we need the front yard to remain landscaped and presentable. Some owners may use this to have a bare dirt yard and call it a garden. That is not in keeping with the landscaping standards when they have side and rear yards to accommodate that. If there were properties with large lots >0.25 acre or larger that had huge yards that would make sense but a small front yard and lot in a residential suburban subdivision is not set up for a full scale garden and furrowed soil.

Please consider this in an amendment to help balance out the garden aspect with landscaping standards in the HOA with small lots and prevent unintended consequences for yard maintenance and bare dirt yards.

Thank you.