

# HOUSE BILL 62

L6, C5

(PRE-FILED)

3lr0446  
CF SB 62

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By: **Delegate Charkoudian**

Requested: September 22, 2022

Introduced and read first time: January 11, 2023

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Land Use – Public Service Companies – Pollinator-Friendly Vegetation**  
3 **Management and Utility-Designated Pollinator Areas**

4 FOR the purpose of prohibiting local jurisdictions from imposing certain limitations and  
5 land use restrictions on ~~pollinator-friendly vegetation management activities of~~  
6 ~~public service companies within property, easements, or rights-of-way of public~~  
7 ~~service companies~~ utility-designated pollinator areas maintained by a public service  
8 company under certain conditions; requiring certain public service companies to  
9 mow utility-designated pollinator areas in a certain manner; and generally relating  
10 to limitations and land use restrictions on public service company pollinator-friendly  
11 vegetation management and utility-designated pollinator areas.

12 BY repealing and reenacting, with amendments,

13 Article – Land Use

14 Section 1-401 and 10-103

15 Annotated Code of Maryland

16 (2012 Volume and 2022 Supplement)

17 BY adding to

18 Article – Land Use

19 Section 4-215

20 Annotated Code of Maryland

21 (2012 Volume and 2022 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Land Use**

4 1–401.

5 (a) Except as provided in this section, this division does not apply to charter  
6 counties.

7 (b) The following provisions of this division apply to a charter county:

8 (1) this subtitle, including Parts II and III (Charter county –  
9 Comprehensive plans);

10 (2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,  
11 and “Sensitive area”);

12 (3) § 1–201 (Visions);

13 (4) § 1–206 (Required education);

14 (5) § 1–207 (Annual report – In general);

15 (6) § 1–208 (Annual report – Measures and indicators);

16 (7) Title 1, Subtitle 3 (Consistency);

17 (8) Title 1, Subtitle 5 (Growth Tiers);

18 (9) § 4–104(b) (Limitations – Bicycle parking);

19 (10) § 4–208 (Exceptions – Maryland Accessibility Code);

20 (11) § 4–210 (Permits and variances – Solar panels);

21 (12) § 4–211 (Change in zoning classification – Energy generating systems);

22 (13) § 4–212 (Agritourism);

23 (14) § 4–213 (Alcohol production);

24 (15) § 4–214 (Agricultural alcohol production);

25 **(16) § 4–215 (POLLINATOR–FRIENDLY VEGETATION MANAGEMENT);**

26 **[(16)] (17) § 5–102(d) (Subdivision regulations – Burial sites);**

- 1            [(17)] **(18)** § 5–104 (Major subdivision – Review);
- 2            [(18)] **(19)** Title 7, Subtitle 1 (Development Mechanisms);
- 3            [(19)] **(20)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 4            [(20)] **(21)** except in Montgomery County or Prince George’s County, Title  
5 7, Subtitle 3 (Development Rights and Responsibilities Agreements);
- 6            [(21)] **(22)** Title 7, Subtitle 4 (Inclusionary Zoning);
- 7            [(22)] **(23)** § 8–401 (Conversion of overhead facilities);
- 8            [(23)] **(24)** for Baltimore County only, Title 9, Subtitle 3 (Single–County  
9 Provisions – Baltimore County);
- 10           [(24)] **(25)** for Frederick County only, Title 9, Subtitle 10 (Single–County  
11 Provisions – Frederick County);
- 12           [(25)] **(26)** for Howard County only, Title 9, Subtitle 13 (Single–County  
13 Provisions – Howard County);
- 14           [(26)] **(27)** for Talbot County only, Title 9, Subtitle 18 (Single–County  
15 Provisions – Talbot County); and
- 16           [(27)] **(28)** Title 11, Subtitle 2 (Civil Penalty).

17           (c) This section supersedes any inconsistent provision of Division II of this article.  
18 **4–215.**

19           (A) **(1)** IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21           ~~**(2)** “EARLY SUCCESSION PLANT COMMUNITY” MEANS A COLLECTION~~  
22 ~~OF PLANT SPECIES GROWING TOGETHER THAT TYPICALLY APPEAR ON LANDSCAPES~~  
23 ~~FROM WHICH TREES AND OTHER TALL WOODY VEGETATION HAVE BEEN REMOVED~~  
24 ~~OR PREVENTED FROM BECOMING ESTABLISHED BY NATURAL PHYSICAL~~  
25 ~~DISTURBANCE, ANIMAL HERBIVORY, OR HUMAN ACTION.~~

26           **(2)** “INTEGRATED VEGETATION MANAGEMENT” MEANS:

27           **(I)** THE USE OF A SCIENTIFICALLY ESTABLISHED  
28 COMBINATION OF NONCHEMICAL METHODS FOR CREATING AND MAINTAINING A

1 STABLE LOW-GROWING PLANT COMMUNITY, INCLUDING MANUAL, MECHANICAL, OR  
 2 BIOLOGICAL MEANS OF REMOVAL OR SUPPRESSION OF ANY SPECIES THAT IS NOT  
 3 COMPATIBLE WITH THAT PLANT COMMUNITY; AND

4 (II) WHEN THE METHODS UNDER ITEM (I) OF THIS PARAGRAPH  
 5 HAVE BEEN EXHAUSTED OR HAVE BEEN SCIENTIFICALLY DEMONSTRATED TO BE  
 6 INEFFECTIVE FOR POLLINATOR-FRIENDLY HABITATS, THE USE OF THE LEAST TOXIC  
 7 CHEMICAL METHODS AVAILABLE USED IN A MANNER THAT MINIMIZES THE USE OF  
 8 THESE CHEMICAL METHODS AND THE RISKS TO NATIVE POLLINATORS AND OTHER  
 9 NATIVE WILDLIFE, NATIVE PLANTS, HUMAN HEALTH, AND THE ENVIRONMENT.

10 (3) "LOW-GROWING PLANT COMMUNITY" MEANS A COLLECTION OF  
 11 PLANT SPECIES THAT TYPICALLY APPEAR GROWING TOGETHER ON LANDSCAPES  
 12 WHERE TREES HAVE BEEN:

13 (I) REMOVED; OR

14 (II) PREVENTED FROM BECOMING ESTABLISHED DUE TO:

15 1. SOIL AND MOISTURE CONDITIONS;

16 2. NATURAL PHYSICAL DISTURBANCE;

17 3. ANIMAL HERBIVORY; OR

18 4. HUMAN ACTIVITY.

19 ~~(3) (4) "NATIVE PLANT" MEANS A PLANT LISTED AS NATIVE TO THE~~  
 20 ~~PIEDMONT REGION OR THE COASTAL PLAIN REGION OF THE STATE:~~

21 ~~(I) BY THE U.S. FISH AND WILDLIFE SERVICE, THE~~  
 22 ~~DEPARTMENT OF AGRICULTURE, OR THE MARYLAND BIODIVERSITY PROJECT; OR~~

23 ~~(II) IN THE MARYLAND PLANT ATLAS OR "VASCULAR PLANTS~~  
 24 ~~OF MARYLAND, USA: A COMPREHENSIVE ACCOUNT OF THE STATE'S BOTANICAL~~  
 25 ~~DIVERSITY", AS REVISED.~~

26 ~~(4) (i) "NATURALIZED PLANT" MEANS A PLANT THAT ORIGINATED~~  
 27 ~~OUTSIDE EASTERN NORTH AMERICA BUT HAS BEEN INCORPORATED INTO THE~~  
 28 ~~MID-ATLANTIC NATURAL ECOLOGY WITHOUT EXHIBITING INVASIVE TRAITS.~~

29 ~~(ii) "NATURALIZED PLANT" INCLUDES QUEEN ANNE'S LACE,~~  
 30 ~~CHICORY, AND RED CLOVER.~~

1 (5) "NONNATIVE INVASIVE PLANT" MEANS A PLANT LISTED IN THE  
2 CENTER FOR INVASIVE SPECIES AND ECOSYSTEM HEALTH'S MID-ATLANTIC  
3 INVADERS TOOL.

4 (6) (I) "POLLINATOR-FRIENDLY VEGETATION MANAGEMENT"  
5 MEANS LANDSCAPE MANAGEMENT THAT:

6 1. CREATES HABITATS FOR NATIVE POLLINATORS AND  
7 OTHER NATIVE WILDLIFE ~~BY PROVIDING~~ AND NATIVE PLANTS THAT TOGETHER  
8 FORM AN INTERDEPENDENT NATURAL COMMUNITY; AND

9 2. PROVIDES FOOD, WATER, COVER, OR SITES FOR  
10 NESTING.

11 (II) "POLLINATOR-FRIENDLY VEGETATION MANAGEMENT"  
12 INCLUDES:

13 ~~1. MOWING NOT MORE THAN ONCE PER YEAR AND ONLY~~  
14 ~~DURING FEBRUARY OR MARCH TO MAINTAIN AN EARLY SUCCESSION PLANT~~  
15 ~~COMMUNITY THAT SUPPORTS POLLINATORS AND OTHER WILDLIFE IN ALL SEASONS;~~

16 ~~2. JUDICIOUS USE OF HERBICIDES TO CONTROL PLANT~~  
17 ~~SPECIES THAT ARE UNDESIRABLE FOR AN EARLY SUCCESSION PLANT COMMUNITY,~~  
18 ~~SUCH AS TREES AND NONNATIVE INVASIVE PLANTS, IN A MANNER THAT MINIMIZES~~  
19 ~~THE RISK TO DESIRABLE NATIVE PLANTS AND NATURALIZED PLANTS, SUCH AS~~  
20 ~~GRASSES, WILDFLOWERS, VINES, AND SHRUBS; AND~~

21 ~~3. USE OF ENVIRONMENTALLY SOUND AND~~  
22 ~~COST-EFFECTIVE METHODS OF PREVENTING THE ESTABLISHMENT OF TALL TREE~~  
23 ~~SPECIES IN ORDER TO MAINTAIN AN EARLY SUCCESSION PLANT COMMUNITY~~  
24 ~~THROUGH A COMBINATION OF CHEMICAL, BIOLOGICAL, CULTURAL, MECHANICAL,~~  
25 ~~OR MANUAL TREATMENTS.~~

26 1. EMPLOYING NO-MOW METHODS, SUCH AS  
27 HAND-CUTTING, PULLING PLANTS, AND BIOCONTROLS TO MINIMIZE DISTURBANCES  
28 TO HABITATS;

29 2. EMPLOYING ROTATIONAL MOWING CYCLES:

30 A. TO PROMOTE THE AVAILABILITY OF STANDING  
31 VEGETATION AND HABITAT; AND

1                    **B. UNDER WHICH NOT MORE THAN HALF OF A**  
 2 **UTILITY-DESIGNATED POLLINATOR AREA IS MOWED DURING A SINGLE FALL AND**  
 3 **WINTER SEASON;**

4                    **3. USING INTEGRATED VEGETATION MANAGEMENT TO**  
 5 **MAINTAIN LOW-GROWING PLANT COMMUNITIES BY CONTROLLING PLANT SPECIES,**  
 6 **SUCH AS TREES AND NONNATIVE INVASIVE PLANTS, IN A MANNER THAT REDUCES**  
 7 **THE NEED TO MOW AND MINIMIZES THE RISK TO NATIVE POLLINATORS AND OTHER**  
 8 **NATIVE WILDLIFE, NATIVE PLANTS, HUMAN HEALTH, AND THE ENVIRONMENT; AND**

9                    **4. USING SCIENTIFICALLY ACCEPTED APPROACHES FOR**  
 10 **THE PROTECTION OF THE STATE'S RARE, THREATENED, OR ENDANGERED PLANT**  
 11 **AND WILDLIFE SPECIES.**

12                    **(7) "PUBLIC SERVICE COMPANY" HAS THE MEANING STATED IN §**  
 13 **1-101 OF THE PUBLIC UTILITIES ARTICLE.**

14                    **(8) "UNREASONABLE LIMITATION ON POLLINATOR-FRIENDLY**  
 15 **VEGETATION MANAGEMENT" INCLUDES A LIMITATION THAT:**

16                    **(I) SIGNIFICANTLY INCREASES THE COST OF**  
 17 **POLLINATOR-FRIENDLY VEGETATION MANAGEMENT;**

18                    **(II) SIGNIFICANTLY DECREASES THE EFFICACY OF**  
 19 **POLLINATOR-FRIENDLY VEGETATION MANAGEMENT; OR**

20                    **(III) REQUIRES CULTIVATED VEGETATION TO CONSIST WHOLLY**  
 21 **OR PARTLY OF TURF GRASS.**

22                    **(9) "UTILITY-DESIGNATED POLLINATOR AREA" MEANS PROPERTY,**  
 23 **INCLUDING ANY RIGHT-OF-WAY OR EASEMENT:**

24                    **(I) THAT IS MAINTAINED BY A PUBLIC SERVICE COMPANY;**

25                    **(II) FOR WHICH THE PUBLIC SERVICE COMPANY HAS EXCLUSIVE**  
 26 **MAINTENANCE RIGHTS; AND**

27                    **(III) THAT IS VOLUNTARILY IDENTIFIED BY THE PUBLIC SERVICE**  
 28 **COMPANY AS AN AREA THAT WILL BE MAINTAINED WITH POLLINATOR-FRIENDLY**  
 29 **VEGETATION MANAGEMENT TO SUPPORT POLLINATORS.**

30                    **(B) THIS SECTION:**

1 (1) DOES NOT APPLY TO A LIMITATION IMPOSED BY A LOCAL  
 2 JURISDICTION ON POLLINATOR-FRIENDLY VEGETATION MANAGEMENT  
 3 PERFORMED OR OVERSEEN BY A PUBLIC SERVICE COMPANY ON ITS PROPERTY,  
 4 INCLUDING A RIGHT-OF-WAY OR AN EASEMENT, LOCATED ON OR BELOW:

5 (I) A TRAIL OVERLAP;

6 (II) A PARK OVERLAP; OR

7 (III) ACTIVE FARMLAND; AND

8 (2) MAY NOT BE CONSTRUED TO:

9 (I) PROHIBIT A LOCAL JURISDICTION FROM IMPOSING A LAND  
 10 USE RESTRICTION ON THE TYPE, NUMBER, OR LOCATION OF  
 11 POLLINATOR-FRIENDLY VEGETATION MANAGEMENT FEATURES THAT PERTAIN TO:

12 ~~(H)~~ 1. THE SAFE AND DEPENDABLE DELIVERY OF ENERGY  
 13 PRODUCTS; OR

14 ~~(H)~~ 2. HUMAN HEALTH AND SAFETY; OR

15 (II) LIMIT OR RESTRICT MOWING OUTSIDE OF A  
 16 UTILITY-DESIGNATED POLLINATOR AREA.

17 (C) A LOCAL JURISDICTION MAY NOT IMPOSE ANY UNREASONABLE  
 18 ~~LIMITATION ON POLLINATOR-FRIENDLY VEGETATION MANAGEMENT, INCLUDING A~~  
 19 ~~LAND USE RESTRICTION, PERFORMED OR OVERSEEN BY A PUBLIC SERVICE~~  
 20 ~~COMPANY MAINTAINING ITS PROPERTY, INCLUDING ANY RIGHT-OF-WAY OR~~  
 21 ~~EASEMENT, INCLUDING A LAND USE RESTRICTION, ON A UTILITY-DESIGNATED~~  
 22 ~~POLLINATOR AREA MAINTAINED BY A PUBLIC SERVICE COMPANY, IF THE PUBLIC~~  
 23 ~~SERVICE COMPANY:~~

24 (1) ~~HAS EXCLUSIVE RIGHTS TO MAINTAIN THE PROPERTY,~~  
 25 ~~RIGHT-OF-WAY, OR EASEMENT; AND~~ THE UTILITY-DESIGNATED POLLINATOR AREA  
 26 IS SUBJECT TO A CANDIDATE CONSERVATION AGREEMENT BETWEEN THE U.S. FISH  
 27 AND WILDLIFE SERVICE AND THE PUBLIC SERVICE COMPANY; OR

28 (2) THE PUBLIC SERVICE COMPANY MAINTAINS AND REGULARLY  
 29 TENDS TO THE POLLINATOR-FRIENDLY VEGETATION MANAGEMENT  
 30 UTILITY-DESIGNATED POLLINATOR AREA BY PERFORMING OR OVERSEEING  
 31 POLLINATOR-FRIENDLY VEGETATION MANAGEMENT IN ACCORDANCE WITH  
 32 SUBSECTION (D) OF THIS SECTION.

1           **(D) A PUBLIC SERVICE COMPANY THAT CHOOSES TO PERFORM OR OVERSEE**  
 2 **POLLINATOR-FRIENDLY VEGETATION MANAGEMENT IN A UTILITY-DESIGNATED**  
 3 **POLLINATOR AREA SHALL, AS PART OF ITS POLLINATOR-FRIENDLY VEGETATION**  
 4 **MANAGEMENT, MOW THE UTILITY-DESIGNATED POLLINATOR AREA:**

5           **(1) ONLY FROM NOVEMBER 1 THROUGH MARCH 31, INCLUSIVE, AND**  
 6 **NOT MORE THAN ONCE EVERY OTHER YEAR; OR**

7           **(2) ONLY FROM OCTOBER 1 THROUGH APRIL 30, INCLUSIVE, AND**  
 8 **NOT MORE THAN ONCE EVERY OTHER YEAR IF THE UTILITY-DESIGNATED**  
 9 **POLLINATOR AREA IS LOCATED IN THE APPALACHIAN PLATEAU PROVINCE OR THE**  
 10 **RIDGE AND VALLEY PROVINCE AS DEFINED BY THE MARYLAND GEOLOGICAL**  
 11 **SURVEY.**

12 10-103.

13           (a) Except as provided in this section, this division does not apply to Baltimore  
 14 City.

15           (b) The following provisions of this division apply to Baltimore City:

16           (1) this title;

17           (2) § 1-101(m) (Definitions – “Priority funding area”);

18           (3) § 1-101(o) (Definitions – “Sensitive area”);

19           (4) § 1-201 (Visions);

20           (5) § 1-206 (Required education);

21           (6) § 1-207 (Annual report – In general);

22           (7) § 1-208 (Annual report – Measures and indicators);

23           (8) Title 1, Subtitle 3 (Consistency);

24           (9) Title 1, Subtitle 4, Parts II and III (Home Rule Counties  
 25 – Comprehensive Plans; Implementation);

26           (10) § 4-104(b) (Limitations – Bicycle parking);

27           (11) § 4-205 (Administrative adjustments);

28           (12) § 4-207 (Exceptions – Maryland Accessibility Code);



- 1 (13) § 4–210 (Permits and variances – Solar panels);
- 2 (14) § 4–211 (Change in zoning classification – Energy generating systems);
- 3 **(15) § 4–215 (POLLINATOR–FRIENDLY VEGETATION MANAGEMENT);**
- 4 ~~[(15)] (16)~~ § 5–102(d) (Subdivision regulations – Burial sites);
- 5 ~~[(16)] (17)~~ Title 7, Subtitle 1 (Development Mechanisms);
- 6 ~~[(17)] (18)~~ Title 7, Subtitle 2 (Transfer of Development Rights);
- 7 ~~[(18)] (19)~~ Title 7, Subtitle 3 (Development Rights and Responsibilities
- 8 Agreements);
- 9 ~~[(19)] (20)~~ Title 7, Subtitle 4 (Inclusionary Zoning); and
- 10 ~~[(20)] (21)~~ Title 11, Subtitle 2 (Civil Penalty).

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 12 October 1, 2023.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.