

# SENATE BILL 62

L6, C5

(PRE-FILED)

3lr0724  
CF HB 62

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By: **Senator Augustine**

Requested: November 9, 2022

Introduced and read first time: January 11, 2023

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **Land Use – Public Service Companies – Pollinator-Friendly Vegetation**  
3 **Management**

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 under certain conditions; and generally relating to limitations and  
8 land use restrictions on public service company pollinator-friendly vegetation  
9 management.

10 BY repealing and reenacting, with amendments,  
11 Article – Land Use  
12 Section 1-401 and 10-103  
13 Annotated Code of Maryland  
14 (2012 Volume and 2022 Supplement)

15 BY adding to  
16 Article – Land Use  
17 Section 4-215  
18 Annotated Code of Maryland  
19 (2012 Volume and 2022 Supplement)

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

22 **Article – Land Use**

23 1-401.

24 (a) Except as provided in this section, this division does not apply to charter

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 counties.

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

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

5 (2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,  
6 and “Sensitive area”);

7 (3) § 1–201 (Visions);

8 (4) § 1–206 (Required education);

9 (5) § 1–207 (Annual report – In general);

10 (6) § 1–208 (Annual report – Measures and indicators);

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

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

13 (9) § 4–104(b) (Limitations – Bicycle parking);

14 (10) § 4–208 (Exceptions – Maryland Accessibility Code);

15 (11) § 4–210 (Permits and variances – Solar panels);

16 (12) § 4–211 (Change in zoning classification – Energy generating systems);

17 (13) § 4–212 (Agritourism);

18 (14) § 4–213 (Alcohol production);

19 (15) § 4–214 (Agricultural alcohol production);

20 **(16) § 4–215 (POLLINATOR–FRIENDLY VEGETATION MANAGEMENT);**

21 **[(16)] (17) § 5–102(d) (Subdivision regulations – Burial sites);**

22 **[(17)] (18) § 5–104 (Major subdivision – Review);**

23 **[(18)] (19) Title 7, Subtitle 1 (Development Mechanisms);**

24 **[(19)] (20) Title 7, Subtitle 2 (Transfer of Development Rights);**

1            [(20)] **(21)** except in Montgomery County or Prince George’s County, Title  
2 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

3            [(21)] **(22)** Title 7, Subtitle 4 (Inclusionary Zoning);

4            [(22)] **(23)** § 8–401 (Conversion of overhead facilities);

5            [(23)] **(24)** for Baltimore County only, Title 9, Subtitle 3 (Single–County  
6 Provisions – Baltimore County);

7            [(24)] **(25)** for Frederick County only, Title 9, Subtitle 10 (Single–County  
8 Provisions – Frederick County);

9            [(25)] **(26)** for Howard County only, Title 9, Subtitle 13 (Single–County  
10 Provisions – Howard County);

11           [(26)] **(27)** for Talbot County only, Title 9, Subtitle 18 (Single–County  
12 Provisions – Talbot County); and

13           [(27)] **(28)** Title 11, Subtitle 2 (Civil Penalty).

14           (c) This section supersedes any inconsistent provision of Division II of this article.

15 **4–215.**

16           (A) **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
17 **INDICATED.**

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

23           **(3) “NATIVE PLANT” MEANS A PLANT LISTED AS NATIVE TO THE**  
24 **PIEDMONT REGION OR THE COASTAL PLAIN REGION OF THE STATE BY THE U.S.**  
25 **FISH AND WILDLIFE SERVICE, THE DEPARTMENT OF AGRICULTURE, OR THE**  
26 **MARYLAND BIODIVERSITY PROJECT.**

27           **(4) (I) “NATURALIZED PLANT” MEANS A PLANT THAT ORIGINATED**  
28 **OUTSIDE EASTERN NORTH AMERICA BUT HAS BEEN INCORPORATED INTO THE**  
29 **MID–ATLANTIC NATURAL ECOLOGY WITHOUT EXHIBITING INVASIVE TRAITS.**

30           **(II) “NATURALIZED PLANT” INCLUDES QUEEN ANNE’S LACE,**

1 CHICORY, AND RED CLOVER.

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

5 (6) (I) "POLLINATOR-FRIENDLY VEGETATION MANAGEMENT"  
6 MEANS LANDSCAPE MANAGEMENT THAT CREATES HABITATS FOR POLLINATORS  
7 AND OTHER WILDLIFE BY PROVIDING FOOD, WATER, COVER, OR SITES FOR NESTING.

8 (II) "POLLINATOR-FRIENDLY VEGETATION MANAGEMENT"  
9 INCLUDES:

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

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

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

23 (7) "PUBLIC SERVICE COMPANY" HAS THE MEANING STATED IN §  
24 1-101 OF THE PUBLIC UTILITIES ARTICLE.

25 (8) "UNREASONABLE LIMITATION ON POLLINATOR-FRIENDLY  
26 VEGETATION MANAGEMENT" INCLUDES A LIMITATION THAT:

27 (I) SIGNIFICANTLY INCREASES THE COST OF  
28 POLLINATOR-FRIENDLY VEGETATION MANAGEMENT;

29 (II) SIGNIFICANTLY DECREASES THE EFFICACY OF  
30 POLLINATOR-FRIENDLY VEGETATION MANAGEMENT; OR

31 (III) REQUIRES CULTIVATED VEGETATION TO CONSIST WHOLLY  
32 OR PARTLY OF TURF GRASS.

1           **(B) THIS SECTION:**

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

6                   **(I) A TRAIL OVERLAP;**

7                   **(II) A PARK OVERLAP; OR**

8                   **(III) ACTIVE FARMLAND; AND**

9           **(2) MAY NOT BE CONSTRUED TO PROHIBIT A LOCAL JURISDICTION**  
10 **FROM IMPOSING A LAND USE RESTRICTION ON THE TYPE, NUMBER, OR LOCATION**  
11 **OF POLLINATOR-FRIENDLY VEGETATION MANAGEMENT FEATURES THAT PERTAIN**  
12 **TO:**

13                   **(I) THE SAFE AND DEPENDABLE DELIVERY OF ENERGY**  
14 **PRODUCTS; OR**

15                   **(II) HUMAN HEALTH AND SAFETY.**

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

21                   **(1) HAS EXCLUSIVE RIGHTS TO MAINTAIN THE PROPERTY,**  
22 **RIGHT-OF-WAY, OR EASEMENT; AND**

23                   **(2) MAINTAINS AND REGULARLY TENDS TO THE**  
24 **POLLINATOR-FRIENDLY VEGETATION MANAGEMENT.**

25 10-103.

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

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

29                   (1) this title;

- 1           (2)    § 1–101(m) (Definitions – “Priority funding area”);
- 2           (3)    § 1–101(o) (Definitions – “Sensitive area”);
- 3           (4)    § 1–201 (Visions);
- 4           (5)    § 1–206 (Required education);
- 5           (6)    § 1–207 (Annual report – In general);
- 6           (7)    § 1–208 (Annual report – Measures and indicators);
- 7           (8)    Title 1, Subtitle 3 (Consistency);
- 8           (9)    Title 1, Subtitle 4, Parts II and III (Home Rule Counties  
9 – Comprehensive Plans; Implementation);
- 10          (10)   § 4–104(b) (Limitations – Bicycle parking);
- 11          (11)   § 4–205 (Administrative adjustments);
- 12          (12)   § 4–207 (Exceptions – Maryland Accessibility Code);
- 13          (13)   § 4–210 (Permits and variances – Solar panels);
- 14          (14)   § 4–211 (Change in zoning classification – Energy generating systems);
- 15          **(15) § 4–215 (POLLINATOR–FRIENDLY VEGETATION MANAGEMENT);**
- 16          **[(15)] (16) § 5–102(d) (Subdivision regulations – Burial sites);**
- 17          **[(16)] (17) Title 7, Subtitle 1 (Development Mechanisms);**
- 18          **[(17)] (18) Title 7, Subtitle 2 (Transfer of Development Rights);**
- 19          **[(18)] (19) Title 7, Subtitle 3 (Development Rights and Responsibilities**  
20 **Agreements);**
- 21          **[(19)] (20) Title 7, Subtitle 4 (Inclusionary Zoning); and**
- 22          **[(20)] (21) Title 11, Subtitle 2 (Civil Penalty).**

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