

HOUSE BILL 962

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By: **Delegate McMillan**

Introduced and read first time: February 13, 2015

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area – Lot Coverage – Exclusion**
3 **for Driveways Constructed of Decking Material**

4 FOR the purpose of altering the definition of “lot coverage” for purposes of certain
5 provisions of law relating to the Chesapeake and Atlantic Coastal Bays Critical Area
6 to exclude driveways constructed of certain decking material from certain
7 requirements; and generally relating to the Chesapeake and Atlantic Coastal Bays
8 Critical Area.

9 BY repealing and reenacting, with amendments,
10 Article – Natural Resources
11 Section 8–1802(a)(17)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2014 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Natural Resources
16 Section 8–1808.3
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2014 Supplement)

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

21 **Article – Natural Resources**

22 8–1802.

23 (a) (17) (i) “Lot coverage” means the percentage of a total lot or parcel that
24 is:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1. Occupied by a structure, accessory structure, parking
2 area, driveway, walkway, or roadway; or

3 2. Covered with gravel, stone, shell, impermeable decking, a
4 paver, permeable pavement, or any manmade material.

5 (ii) "Lot coverage" includes the ground area covered or occupied by a
6 stairway or impermeable deck.

7 (iii) "Lot coverage" does not include:

8 1. A fence or wall that is less than 1 foot in width that has
9 not been constructed with a footer;

10 2. A walkway in the buffer or expanded buffer, including a
11 stairway, that provides direct access to a community or private pier;

12 3. A wood mulch pathway; [or]

13 4. A deck with gaps to allow water to pass freely; **OR**

14 **5. A DRIVEWAY CONSTRUCTED OF DECKING MATERIAL**
15 **WITH GAPS TO ALLOW WATER TO PASS FREELY.**

16 8–1808.3.

17 (a) (1) This section applies notwithstanding:

18 (i) Any other provision of this subtitle; or

19 (ii) Any criteria or guideline of the Commission adopted under this
20 subtitle.

21 (2) This section may not be construed to affect a credit applicable to a
22 stormwater management practice that is approved by the Department of the Environment.

23 (b) Lot coverage in the buffer may not exceed the minimum amount necessary for
24 water-dependent facilities, regardless of the critical area classification or the size of the
25 parcel or lot, except:

26 (1) For a buffer exemption area, as mapped or established under an
27 approved local program;

28 (2) For a variance granted in accordance with this subtitle; or

29 (3) As provided in a waterfront revitalization area or a waterfront
30 industrial area under a local program.

1 (c) This section controls over any other requirement concerning lot coverage
2 limitations in limited development areas and resource conservation areas in the critical
3 area.

4 (d) (1) Except as otherwise provided in this subsection for stormwater runoff,
5 lot coverage is limited to 15% of a parcel or lot.

6 (2) If a parcel or lot one-half acre or less in size existed on or before
7 December 1, 1985 in the Chesapeake Bay Critical Area or on or before June 1, 2002 in the
8 Atlantic Coastal Bays Critical Area, then lot coverage is limited to 25% of the parcel or lot.

9 (3) If a parcel or lot greater than one-half acre and less than one acre in
10 size existed on or before December 1, 1985 in the Chesapeake Bay Critical Area or on or
11 before June 1, 2002 in the Atlantic Coastal Bays Critical Area, then lot coverage is limited
12 to 15% of the parcel or lot.

13 (4) Unless otherwise restricted by a local jurisdiction, lot coverage in a
14 subdivision approved after December 1, 1985 in the Chesapeake Bay Critical Area or after
15 June 1, 2002 in the Atlantic Coastal Bays Critical Area may not exceed 15%. However, the
16 total lot coverage on an individual lot one acre or less in size may exceed 15%.

17 (e) This section does not apply to a trailer park that was in residential use on or
18 before December 1, 1985 in the Chesapeake Bay Critical Area or on or before June 1, 2002
19 in the Atlantic Coastal Bays Critical Area.

20 (f) A local jurisdiction may allow a property owner to exceed the lot coverage
21 limits provided in subsection (d)(2) and (3) of this section if the following conditions exist:

22 (1) Lot coverage associated with new development activities on the
23 property has been minimized;

24 (2) For a lot or parcel one-half acre or less in size, total lot coverage does
25 not exceed lot coverage limits in subsection (d)(2) of this section by more than 25% or 500
26 square feet, whichever is greater;

27 (3) For a lot or parcel greater than one-half acre and less than one acre in
28 size, total lot coverage does not exceed lot coverage limits in subsection (d)(3) of this section
29 or 5,445 square feet, whichever is greater;

30 (4) Water quality impacts associated with runoff from new development
31 activities that contribute to lot coverage can be and have been minimized through site
32 design considerations or use of best management practices approved by the local
33 jurisdiction to improve water quality; and

34 (5) The property owner performs on-site mitigation as required by the local
35 jurisdiction to offset potential adverse water quality impacts from the new development

1 activities that contribute to lot coverage, or the property owner pays a fee to the local
2 jurisdiction in lieu of performing the on-site mitigation.

3 (g) All fees collected by a local jurisdiction under subsection (f)(5) of this section
4 must be used to fund projects that improve water quality within the critical area consistent
5 with the jurisdiction's local critical area protection program.

6 (h) (1) In this subsection, "legally developed" means that all physical
7 improvements to a property:

8 (i) Existed before Commission approval of a local program; or

9 (ii) Were properly permitted in accordance with the local program
10 and impervious surface policies in effect at the time of construction.

11 (2) (i) A lot or parcel legally developed as of July 1, 2008 may be
12 considered legally nonconforming for purposes of lot coverage requirements.

13 (ii) For the purpose of increasing lot coverage on a lot or parcel under
14 subparagraph (i) of this paragraph, the lot coverage limitations under this section may not
15 be construed to apply to a development activity for which:

16 1. A building permit was issued before July 1, 2008; and

17 2. Construction was initiated and an inspection was
18 performed before July 1, 2009.

19 (i) A local jurisdiction may grant a variance from the provisions of this section in
20 accordance with the provisions of this subtitle, regulations adopted by the Commission
21 concerning variances as part of local program development set forth in COMAR 27.01.11,
22 and notification of project applications set forth in COMAR 27.03.01.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2015.