

SENATE BILL 62

L6, C5

(PRE-FILED)

3lr0724
CF HB 62

By: **Senator Augustine**

Requested: November 9, 2022

Introduced and read first time: January 11, 2023

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2023

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)

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 it is the intent of the General
 12 Assembly that nothing in this Act shall be interpreted to modify, limit, or interfere with
 13 State or local laws relating to weed control under Title 9, Subtitle 4 of the Agriculture
 14 Article or with the vegetation management, pollinator–friendly vegetation management, or
 15 other activities of a public service company outside of a utility–designated pollinator area.

16 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 17 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.