

# HOUSE BILL 434

N1, L6

7lr2691  
CF SB 62

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By: **Delegate Carr**

Introduced and read first time: January 26, 2017

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Backyard Gardens – Prohibition on Restrictions**

3 FOR the purpose of prohibiting certain documents from prohibiting a certain homeowner  
4 or tenant from installing or cultivating a backyard garden; establishing that,  
5 notwithstanding certain documents, a certain homeowner or tenant may not be  
6 prohibited from installing or cultivating a backyard garden; providing that a local  
7 jurisdiction may not prohibit installation or cultivation of a backyard garden on  
8 certain property; applying the prohibition to charter counties and Baltimore City;  
9 defining certain terms; and generally relating to the installation and cultivation of  
10 backyard gardens.

11 BY repealing and reenacting, with amendments,  
12 Article – Land Use  
13 Section 1–401(b) and 10–103(b)  
14 Annotated Code of Maryland  
15 (2012 Volume and 2016 Supplement)

16 BY adding to  
17 Article – Land Use  
18 Section 4–104(c)  
19 Annotated Code of Maryland  
20 (2012 Volume and 2016 Supplement)

21 BY adding to  
22 Article – Real Property  
23 Section 14–133  
24 Annotated Code of Maryland  
25 (2015 Replacement Volume and 2016 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Article – Land Use

1  
2 1–401.

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

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

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

8 (3) § 1–201 (Visions);

9 (4) § 1–206 (Required education);

10 (5) § 1–207 (Annual report – In general);

11 (6) § 1–208 (Annual report – Measures and indicators);

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

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

14 (9) § 4–104(b) (Limitations – Bicycle parking);

15 **(10) § 4–104(C) (LIMITATIONS – BACKYARD GARDENS);**

16 ~~[(10)]~~ **(11)** § 4–208 (Exceptions – Maryland Accessibility Code);

17 ~~[(11)]~~ **(12)** § 4–210 (Permits and variances – Solar panels);

18 ~~[(12)]~~ **(13)** § 5–102(d) (Subdivision regulations – Burial sites);

19 ~~[(13)]~~ **(14)** § 5–104 (Major subdivision – Review);

20 ~~[(14)]~~ **(15)** Title 7, Subtitle 1 (Development Mechanisms);

21 ~~[(15)]~~ **(16)** Title 7, Subtitle 2 (Transfer of Development Rights);

22 ~~[(16)]~~ **(17)** except in Montgomery County or Prince George’s County, Title  
23 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

24 ~~[(17)]~~ **(18)** Title 7, Subtitle 4 (Inclusionary Zoning);

1            [(18)] **(19)** § 8–401 (Conversion of overhead facilities);

2            [(19)] **(20)** for Baltimore County only, Title 9, Subtitle 3 (Single–County  
3 Provisions – Baltimore County);

4            [(20)] **(21)** for Howard County only, Title 9, Subtitle 13 (Single–County  
5 Provisions – Howard County);

6            [(21)] **(22)** for Talbot County only, Title 9, Subtitle 18 (Single–County  
7 Provisions – Talbot County); and

8            [(22)] **(23)** Title 11, Subtitle 2 (Civil Penalty).

9 4–104.

10            **(C) (1) IN THIS SUBSECTION, “BACKYARD”, “GARDEN”, AND**  
11 **“SINGLE–FAMILY PROPERTY” HAVE THE MEANINGS STATED IN § 14–133 OF THE**  
12 **REAL PROPERTY ARTICLE.**

13            **(2) A LOCAL JURISDICTION MAY NOT PROHIBIT OR LIMIT THE**  
14 **INSTALLATION OR CULTIVATION OF A BACKYARD GARDEN ON SINGLE–FAMILY**  
15 **PROPERTY.**

16 10–103.

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

18            (1) this title;

19            (2) § 1–101(m) (Definitions – “Priority funding area”);

20            (3) § 1–101(o) (Definitions – “Sensitive area”);

21            (4) § 1–201 (Visions);

22            (5) § 1–206 (Required education);

23            (6) § 1–207 (Annual report – In general);

24            (7) § 1–208 (Annual report – Measures and indicators);

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

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

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

**(11) § 4–104(C) (LIMITATIONS – BACKYARD GARDENS);**

[(11)] **(12)** § 4–205 (Administrative adjustments);

[(12)] **(13)** § 4–207 (Exceptions – Maryland Accessibility Code);

[(13)] **(14)** § 4–210 (Permits and variances – Solar panels);

[(14)] **(15)** § 5–201(d) (Subdivision regulations – Burial sites);

[(15)] **(16)** Title 7, Subtitle 1 (Development Mechanisms);

[(16)] **(17)** Title 7, Subtitle 2 (Transfer of Development Rights);

[(17)] **(18)** Title 7, Subtitle 3 (Development Rights and Responsibilities  
Agreements);

[(18)] **(19)** Title 7, Subtitle 4 (Inclusionary Zoning); and

[(19)] **(20)** Title 11, Subtitle 2 (Civil Penalty).

### Article – Real Property

#### 14–133.

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

**(2) “BACKYARD” MEANS THE PORTION OF A SINGLE-FAMILY PROPERTY EXTENDING FROM THE REAR OF THE DWELLING UNIT TO THE END OF THE PLOT.**

**(3) (I) “GARDEN” MEANS AN AREA IN WHICH VEGETABLES, FRUIT, OR HERBS ARE CULTIVATED AND GROWN.**

**(II) “GARDEN” INCLUDES:**

**1. TILLED SOIL, RAISED BEDS RISING NO MORE THAN 12 INCHES ABOVE THE GROUND, AND FREE-STANDING POTTED SOIL; AND**

**2. THE PRODUCE GROWN AND CULTIVATED IN THE SOIL.**

1           **(4) (I) “SINGLE-FAMILY PROPERTY” INCLUDES:**

2                           **1. A SINGLE-FAMILY DETACHED HOME;**

3                           **2. A TOWNHOUSE; AND**

4                           **3. A PROPERTY THAT IS SUBJECT TO:**

5                                   **A. TITLE 11 OF THIS ARTICLE;**

6                                   **B. TITLE 11B OF THIS ARTICLE; OR**

7                                   **C. TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND**  
8 **ASSOCIATIONS ARTICLE.**

9                           **(II) “SINGLE-FAMILY PROPERTY” DOES NOT INCLUDE**  
10 **PROPERTY THAT CONTAINS MORE THAN FOUR DWELLING UNITS.**

11                   **(5) “TOWNHOUSE” MEANS A SINGLE-FAMILY DWELLING UNIT THAT IS**  
12 **CONSTRUCTED IN A HORIZONTAL SERIES OF ATTACHED UNITS WITH PROPERTY**  
13 **LINES SEPARATING THE UNITS.**

14           **(B) A CONTRACT, A DEED, A COVENANT, A RESTRICTION, AN INSTRUMENT,**  
15 **A DECLARATION, A RULE, A BYLAW, A LEASE AGREEMENT, A RENTAL AGREEMENT,**  
16 **OR ANY OTHER DOCUMENT MAY NOT PROHIBIT A HOMEOWNER OR TENANT FROM**  
17 **INSTALLING OR CULTIVATING A BACKYARD GARDEN ON SINGLE-FAMILY PROPERTY.**

18           **(C) NOTWITHSTANDING ANY OTHER LAW OR THE TERMS OF ANY CONTRACT,**  
19 **DEED, COVENANT, RESTRICTION, INSTRUMENT, DECLARATION, RULE, BYLAW,**  
20 **LEASE AGREEMENT, RENTAL AGREEMENT, OR ANY OTHER DOCUMENT CONCERNING**  
21 **THE INSTALLATION OR USE OF A BACKYARD GARDEN ON SINGLE-FAMILY**  
22 **PROPERTY, A HOMEOWNER OR TENANT MAY NOT BE PROHIBITED FROM INSTALLING**  
23 **OR CULTIVATING A BACKYARD GARDEN ON SINGLE-FAMILY PROPERTY.**

24           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2017.