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Maryland's Woodland Stewardship Educator



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Considering Opening Land to Recreational Uses? Make Sure You Understand MD's Recreational Use Statute

[Paul Goeringer](#), Extension Legal Specialist, University of Maryland

Like all states, Maryland has a Recreational Use Statute (RUS) that encourages owners and tenants to allow access to properties for recreational use by lowering the standard of care owed to the visitor. Maryland's recreational use statute imposes no duty of care for the owner to keep premises safe or give a warning to recreational or educational users. Instead, under the law, the duty of care owed to a recreational or educational user is the same as the duty of care owed to a trespasser and a landowner/tenant, i.e., to refrain from willful or malicious failure to guard against dangerous conditions on the property.

To gain the protections from the RUS, a landowner/tenant must allow the guests on the property for recreational or educational use. Recreational use is "any recreational purpose." (Nat. Res. § 5-1101(f)). For example, allowing a friend to use your property to ride the friend's horse or for a hike would be considered recreational. The statute is broad to allow it to encompass as many recreational uses as possible.

Educational uses would include:

- 1) Nature study;
- 2) Farm visitations for purposes of learning about the farming operation;
- 3) Practice judging of livestock, dairy cattle, poultry, other animals, agronomy crops, horticultural crops, or other farm products;
- 4) Organized visits to farms by school children, 4-H clubs, FFA clubs, and others as part of their educational programs;
- 5) Organized visits for purposes of participating in or observing historical reenactments as part of an educational or cultural program; and
- 6) Observation of historical, archaeological, or scientific sites. (Nat. Res. § 5-1101(c)(1)-(6))

For example, if Sally allowed other farmers on her farm to learn about certain practices utilized by Sally, that would be

an educational use. Sally would also be able to invite area school kids on her farm as part of an educational field trip; this is also an educational use.

The recreational or educational user must have access to the property for no charge. The law defines charge as "price or fee asked for services, entertainment, recreation performed, products offered for sale on land or in return for invitation or permission to enter or go upon the land." (Nat. Res. § 5-1101(b)(1)). In other states, courts have found that "charge" does not include fees paid to park a vehicle, camper, etc. as long as it is unrelated to the admission of people using the property for a recreational purpose. Farmers should also refrain from offering products for sale on the land to retain the RUS law's protections.

The definition of charge contains three exemptions. The first exemption allows recreational users to share with the landowner/tenant any game, fish, or other products from the recreational use (Nat. Res. § 5-1101(b)(2)(i)). Benefits "to the land arising from the recreational use" also are not considered charges under the RUS. (Nat. Res. § 5-1101(b)(2)(ii)). The benefit to the property from allowing others to use for a recreational/educational purpose (such as an increase in property values) is not considered a "charge" under the statutory definition. For example, deer have been destroying your corn crop, and you allow anyone who wants to hunt to come on your property for deer hunting. The deer hunters are successful, and deer do not further damage your corn crop. This benefit to your land, fewer deer to damage your

See RUS, p. 7.

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Registration Now Open For “The Woods in Your Backyard” Online Fall Session

Registration is now open for the Fall 2020 session of “The Woods in Your Backyard” online course. Our course is designed primarily for small-acreage property owners who want to learn how to care for or expand existing woodlands, or to convert lawn space to woodlands.



The self-paced, non-credit online course runs for ten weeks, from August 31 to November 9. It is offered through the University of Maryland’s Electronic Learning Management System, and is accessible from any Internet connection and Web browser.

The course closely follows the published guide of the same name, but includes some important extras. Quizzes reinforce the important concepts of the text. Optional activities give participants the opportunity to share one or more of their stewardship journal entries, or photos or narratives of their woodland stewardship accomplishments. In addition, many of the course’s units are accompanied by short videos, created and produced by Woodland Stewardship Education staff. These 2- to 5-minute videos demonstrate essential skills and techniques (such as tree identification or chosen tree release) and share the experiences of other woodland owners.

The course costs \$95.00 and each session is limited to 25 participants. Each paid enrollment includes printed copies of “The Woods in Your Backyard” guide and workbook, plus a copy of *Common Native Trees of Virginia*. Visit our website page about the course at [this link](#) for more information, including updated registration information and a way to preview the course at no charge.

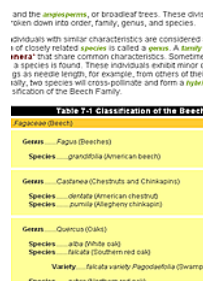
Go to Eventbrite at <https://wiyb-s9.eventbrite.com> for participant comments, more information, and how to register.

If you are a Maryland Master Naturalist or a Maryland Master Gardener, participating in this course can contribute to your annual hours commitment. See [this link](#) for more details.

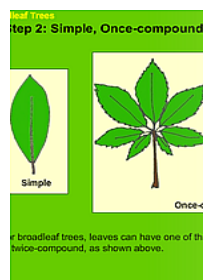
Becoming a Steward of the Land: UME Forestry Program Offers Certification Course

Learn to be a steward of the land this fall with the University of Maryland Extension General Forestry Course. Both paper and online versions of the course will be offered, beginning Sept. 1 through Dec. 15, 2020. Registration is now open, and interested participants can register online at extension.umd.edu/forestry-course.

This is a non-credit course with no formal classes – work from the comfort of your home using your own woodlot, a friend's or a public forest. The course covers how to protect your trees from insects, diseases, and fire; step-by-step procedures walk you through a forest inventory and stand analysis; and the details of the forestry business are presented, including tax nuances and the sale and harvest of forest products. Ultimately, the course exercises help you develop the framework for a stewardship plan for your forest.



Sample course pages



The cost for this forestry course is \$150. Included in the cost are copies of the supplemental readings (“A Sand County Almanac,” “The Woodland Steward, American Forests: A History of Resiliency and Recovery,” a small pamphlet entitled “What Tree Is That?” and “Common Native Trees of Virginia Tree Identification Guide”). The paper version text and appendices for the course are in binder form. Online users receive a flash drive of the paper version of the text and appendices. A certificate of completion is awarded when all assignments are completed.

To learn more about the course and what it entails, go to extension.umd.edu/forestry-course. There you can read a lesson from the text, view an interactive exercise, read through detailed course information and FAQs.

For more information, contact Nancy Stewart at the University of Maryland Extension, Wye Research and Education Center, P.O. Box 169, Queenstown, MD 21658, 410-827-8056, ext. 107, or nstewart1@umd.edu. Check for details on our website!

Woodland Wildlife Spotlight: Chuck-will's-widow

Once you've heard [the call of the Chuck-will's-widow](#), chances are you won't easily forget it. When I worked for the National Park Service's Cape Hatteras National Seashore, I lived in a small house tucked into the edge of a maritime forest. Every summer, and particularly during nights with full moons and clear skies, I was serenaded by several of these birds outside my bedroom windows. They prefer to roost in the same location night after night, from which, as one writer put it, an adult "incessantly sings its name." I know I felt that way sometimes as I heard them calling over and over.

This vocal bird has been observed, or heard, throughout Maryland except for in Carroll County. Observations are common on the coastal plain and particularly on the lower Eastern Shore in areas such as Assateague Island and St. Mary's State Park. They are less common in the central part of the state and are very rare in the western counties. The birds prefer oak-hickory and deciduous mixed woodlands, but will also inhabit pine forests and edges of swamps. They arrive from tropical regions in the Caribbean and northern South America to breed and raise their young before migrating south.

The Chuck-will's-widow is the largest North American bird in the family known as "nightjars." This small family includes whip-poor-wills and nighthawks, and is characterized by nighttime hunting. Consequently, seeing nightjars like the Chuck-will's-widow is a true challenge for birders.

This bird's coloration helps them become inconspicuous during the day. Their upper parts are a mottled mix of black, brown and buff feathers, ideal for camouflaging while roosting on the ground or on a branch. In flight, there are only small stripes of white on the males' tails. And of course, after dark, the only way humans usually know that they are occupying habitat is because of the call. If you are persistent and lucky enough to find the location where one is singing, a flashlight beam that catches its eyes will reflect back as bright orange.

The bird itself is actually rather large in size, measuring between a robin and a crow. It has a large, flat head and long wings designed for gliding over trees and along woodland margins in search of prey. Unlike other nocturnal predators such as owls that use enhanced hearing to find and hunt prey, the Chuck-will's-widow depends on its vision. It has large eyes designed for low light conditions. Silently swooping on its prey and using its [wide, gaping mouth](#), it captures insects such as moths and flying beetles. Chuck-will's-widows have also been known to hunt small birds, such as hummingbirds, sparrows, and warblers. All prey is apparently swallowed whole.

Chuck-will's-widow Basics

Appearance: Mottled browns and black in upper parts; brown wings. Males have some white striping on tail.

Size: (Both sexes) bodies 11-13 inches long, 2.3 to 6.6 oz. weight, and wingspan 22 to 2 inches

Lifespan: Unknown.

Chuck-will's-widow
roosting in Dorchester
County MD, 2012.
Photo by Mikey
Lutmerding, Maryland
Biodiversity Project



Chuck-will's-widow, Dorchester County MD, 2018.
Photo by Anthony
VanSchoor, Maryland
Biodiversity Project

On nights when there is not enough moonlight to hunt, they only forage for an hour or so at dusk and take the rest of the night off. The bird's low metabolic rate allows them to go long stretches without food.

Beyond this basic information, there is still a great deal to be learned about these mysterious and elusive birds. For example, scientists and observers know that the species does not build nests or lay their eggs in scrapes on the ground; in fact, they simply lay their eggs on the ground and cover them with their camouflaged bodies.

A typical clutch is two creamy white eggs, but humans have yet to verify which of the breeding pair (male or female) performs the incubation, whether one or both feed the young, and other important information. It is known, however, that the chicks are fledged and ready to fly after about 17 days.

Conservationists classify the Chuck-will's-widow as "near threatened," due in part to habitat loss both in its migratory and its breeding grounds. However, the gaps in scientific knowledge concerning breeding success, habitat use, and population status mean that the Chuck-will's-widow's position as one of the continent's most mysterious woodland birds may be secure for now.

Invasives in Your Woodland: Winged Euonymus (Burning Bush)

The name of this issue's invasive plant species may result in some verbal gymnastics. The combination of leading vowels and Y in the middle does not necessarily roll off the tongue. Consequently, this species, the genus of which is pronounced "Yoo-ON-ih-mus," is more commonly known by a variety of descriptive nicknames. The most common is "burning bush," but it is also known as "winged burning bush," "winged spindle tree," "winged wahoo," and others.

Not matter its name, this particular invasive is not widespread in the mid-Atlantic. Its greatest reported infestations are in the Midwest and Northeast. It has been found in much of central and southern Pennsylvania, far northern Delaware, southwestern Virginia, north-central West Virginia, and the greater Washington DC area. See the map on this page.

What is it?

Winged euonymus (*euonymus alatus*) was introduced to the United States in the mid-1800s from Asia as an ornamental plant for landscaping. It is native to central China, Japan and northeast Asia. It is still available commercially under several varieties, and continues to be planted around buildings, along roadsides, and in residential settings. Some examples of this shrub have grown up to 20 feet in height. From these intentional plantings, it has escaped into woodland edges, into mixed deciduous forests, and into disturbed sites such as roadsides or new construction.

The plant needs full to partial shade to thrive, but can survive shaded areas with the proper soil conditions. It withstands a wide range of soil types, except areas that are wet and poorly-drained. Given the proper conditions, it forms dense thickets and can out-compete native plants.

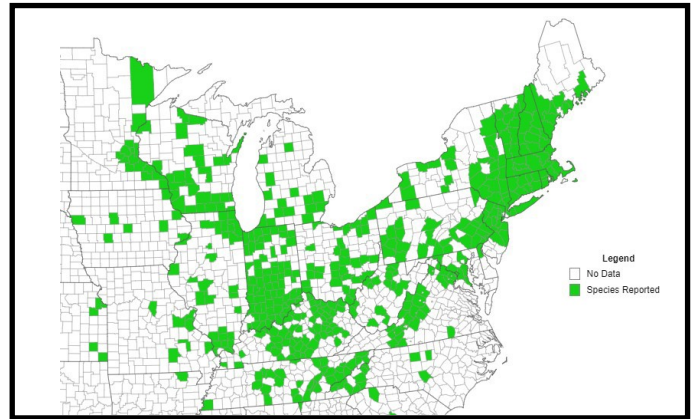


Winged euonymus infestation.

Photo by Leslie J. Mehrhoff, University of Connecticut, Bugwood.org

Winged euonymus is now considered invasive in several states. For example, in Maryland it is regulated by the Maryland Dept. of Agriculture (MDA). Retail stores that offer it for sale are required by MDA to display information that designate it is an invasive plant.

How does it spread?



[Winged euonymus Eastern US county distribution.](#)

Courtesy eddmaps.org.

This invasive plant spreads widely under ideal conditions. It generates numerous seedlings, and birds disperse the seeds by consuming its berries. The seeds can remain viable in the soil for many years.

How can I identify it?

Winged euonymus has a variety of distinguishing features. Its bright red autumn foliage has led to the "burning bush" nickname. Identification in other seasons is made easier by the branches' characteristic winged stems and by its dark green oval leaves, which have tapered tips. The small red berries appear from September to October. See the photo gallery on the next page.

How can I control it?

Manual, mechanical, and chemical methods have proven effective in controlling winged euonymus; often a combination is needed. Pull the seedlings as soon as possible after they sprout; they may be numerous beneath an established shrub. Established plants should be pulled before they begin to generate berries. Cut the shrub to the ground to control re-sprouting; the process may need to be repeated. Herbicide applications are most effective in late summer through fall to allow the chemicals to be transported into the root systems as the dormant season approaches. Applications using cut-stump or foliar spray methods are effective. Multi-stemmed shrubs will require more than one foliar spray applications to ensure that the herbicide reaches the root systems of each stem.

For more information:

Learn more about Winged euonymus:

[Q&A: Is Burning Bush an Invasive Plant?](#) - Maryland Grows blog

[Winged Burning Bush \(Plant Invaders of Mid-Atlantic Natural Areas\)](#) - invasive.org

[Invasive Plants in Pennsylvania: Burning Bush](#) - Pennsylvania DCNR

Image Gallery: Winged Euonymus



Winged euonymus foliage.
Photo by Richard Gardner, Bugwood.org



Winged euonymus wings. Photo by Chris Evans,
University of Illinois, Bugwood.org



Winged euonymus. Top: Wings and berries. Middle: planted shrubs in landscape. Bottom: berries. Photos by Leslie J. Mehrhoff, University of Connecticut, Bugwood.org

News and Notes

Woodland Wildlife Webinars Available for Viewing

Did you happen to miss any of the webinars in our new Woodland Wildlife Wednesday series? Each of the webinars is now available for you to watch at your leisure. Learn about black bears, reptiles and amphibians, and landowner liability & recreation access in Maryland.



Go to the [Woodland Stewardship Education program's website](#). Select "Webinar Recordings" from the Resources menu on the right side of the screen. And don't miss upcoming webinars in the series; check the [Events Calendar](#) for more information.

The Battle Against Invasive Pests - with Sharp Eyes & High Tech



Photo by CBP

Thanks to sharp-eyed inspectors from Customs and Border Protection, two container ships entering the Port of Baltimore were found to be carrying things not on their manifests. [According to CBS Baltimore](#), the agents in June found nine egg nests from non-native moth species on the ships. One species, native to Argentina, was the first of its

kind found locally, said the CBP. The other species was the well-known Asian gypsy moth.

The Argentinian moth egg masses were found on a ship that had arrived from Brazil. The gypsy moth eggs were discovered on a ship from India. All the masses were removed and sent to the US Dept. of Agriculture for testing.

CBP and other inspection agents may have some additional assistance in identifying suspected invasive pests and plant pathogens. A researcher from the University of British Columbia has developed a portable, battery-powered analyzer that can study DNA in under two hours. The user places samples, such as insect parts or a twig or leaf, in a tube for analysis. The DNA is compared to known pathogens and the user receives the results via a paired smartphone. Read more about this technology at [Science Today here](#).

Oak Decline Reporting Tool Available for Anne Arundel County

Oak decline is a growing problem throughout the mid-Atlantic region. The Anne Arundel County Department of Inspections and Permits has added a way to report declining white and red oak trees in the county.



ANNE ARUNDEL
COUNTY
MARYLAND

Go to <https://www.aacounty.org/departments/inspections-and-permits/oak-decline/index.html> to complete the reporting form. The form asks for information such as site conditions, the number of trees observed, and their diameter at breast height. The form also allows users to upload a photo for additional information.

The information will assist county foresters assess the impact and spread of oak decline in the county. For more information, visit <https://www.aacounty.org/departments/inspections-and-permits/blue-notice/IP-20-13.pdf>

Spotted Lanternfly Presence Expanding in Maryland

From the initial infestation locations in southeastern Pennsylvania, the invasive insect spotted lanternfly (SLF) is moving into neighboring counties of



Maryland. The Maryland Dept. of Agriculture reports that SLF continues to spread in Cecil County and has been newly reported in Hagerstown in the city park and an adjacent apartment complex. Insects have also been found in Harford County; a permit is required for any businesses moving within or through Cecil and Harford counties, along with any movement in the quarantined areas in DE, NJ, PA, and VA.

Woodland owners are reminded that SLF prefers the invasive tree-of-heaven for laying egg masses and for other activities. For more information, [go here](#).

RUS, from p. 1.

crops, would not be considered a “charge” under the statutory definition.

[C]ontributions in kind or services to promote the management or conservation of the land” (Nat. Res. § 5-1101(b)(2) (iii)) are the third statutory exemption from the definition of “charge.” Collecting contributions allows a landowner/tenant to provide sound management of the natural resources found on the property. For example, a forest management specialist enjoys using Mary’s property for hunting and fishing. In return for access, the specialist provides Mary with expertise in how to manage the property better. This service provided is not a “charge.”



A recent court case has brought into question the need for public access to be covered by the recreational statute.

Agritourism operators, wineries, and any other farmers selling farm products to consumers are not likely within the RUS law scope. Visitors to these operations are considered invitees and would need protection from unreasonable dangers. The RUS law does not apply to those operations is collecting fees for admission or rides, or payment for produce, etc. For example, the operators of a corn maze typically charge an admittance fee or charge some fee to use the corn maze. A winery operator would be excluded from the RUS law’s protections because the operator offers products, like wine, for sale on the property.

A recent court decision by the Maryland Court of Special Appeals does create additional concerns that the landowner/tenant should keep in mind. In *Martinez v. Ross*, a landowner opened his property to a large social gathering and allowed attendees to ride ATVs on the property. One attendee is injured while riding an ATV provided by the landowner and sues for the injuries. The property was fenced off with access gates and signs clearly stating “No Trespassing” or “Keep Out.” Landowner claims that the RUS

applies. The Court of Special Appeals found that the RUS defense did not apply. To the court, the landowner only opened the property to a limited class (partygoers), and to gain the RUS defense, the landowner should have opened the property up to more than just a limited class. The property does not have to be opened up to everyone but could be as simple as allowing horseback riders to use a portion of the property to access a nearby trail.

This compares well to another court decision in Maryland, where a hotel guest was injured while jogging on a path provided by the hotel. In that case, the path was open to all to use, and the hotel did not prevent people from using the trail. The RUS defense applied in that case. We will need more court decisions to determine how open the property needs to be, but at this point, it seems clear the RUS defense potentially will not apply when the property is fenced and marked to prevent others from using it.

The RUS defense is an important one for many landowners. Take time to understand how the law operates. By understanding now, and doing things right as you potentially open your property up, you will add yourself extra protections by ensuring the RUS defense is available when you need it.

For more information:

[Landowner Liability & Recreation Access in Maryland—Woodland Wildlife Wednesday Webinar, July 29, 2020](#)

[Recreational Access and Landowner Liability in Maryland](#) - University of Maryland Extension Bulletin #357

[Maryland Appellate Court Finds Party on Landowner’s Property Not Covered by Recreational Use Statute](#) - Maryland Risk Management Education Blog, University of Maryland

This Issue’s Brain Tickler ...



Last issue, we asked which of Maryland’s 11 state forests was the first to be designated as such. The answer is today’s Potomac-Garrett State Forest.

Congratulations to Joanne Sheffield for her correct answer.



For this issue, let’s consider a relatively new term: “habitat tree.” What is the (polite) four-letter word that this important woodland tree is more commonly called? (Here’s a hint: There’s a picture of one at left.)

Email Andrew Kling at akling1@umd.edu with your answer.

Events Calendar

For more events and information, go to <http://extension.umd.edu/woodland/events>

August 26, 2020, 12:00 pm—1:00 pm

Woodland Wildlife Wednesday webinar Online

Deer are a public resource and highly valued by Maryland citizens for many reasons, but few people fully understand how they are managed by state wildlife professionals. Maryland has been very progressive in establishing deer management regulations to address issues of overabundance that impact farmers, homeowners, and others, while at the same time maintaining healthy populations for user groups that enjoy their presence. Brian Eyler, State Deer Biologist, MD DNR Wildlife & Heritage Service, will discuss the biology of deer, how they are managed by wildlife professionals, and the challenges that exist when addressing the conflicts that are caused by this most popular wildlife species. This webinar is free, but registration is required. Go to Eventbrite [here](#) for more information.

August 28, September 11, 18, & 25, 2020, 12:00—12:15 pm

Fifteen Minutes in the Forest Online

Join Virginia Cooperative Extension on Fridays for “Fifteen Minutes in the Forest” - video presentations on woodland/outdoor topics.

Aug. 28 - American Chestnut

Sept. 11 - Timber Harvesting & Water Quality

Sept. 18 - The Life of a Clearcut

Sept. 25 - Aging Deer Jawbones

All presentations are held via Zoom [here](#).

September 30, 2020, 12:00 pm—1:00 pm

Woodland Wildlife Wednesday webinar Online

This month's webinar will feature Bob Long, Wild Turkey and Upland Game Bird Project Manager for the Maryland DNR Wildlife and Heritage Service. Registration information is pending; check our website [Events Calendar](#) for updates.

October 29-30, 2020

Virtual Chesapeake Watershed Forum Online

The Alliance for the Chesapeake Bay announces that its 15th annual Chesapeake Watershed Forum will be online.

This year's theme is “Climate Resiliency in a Changing Chesapeake Watershed.” Registration opens August 24th and closes October 29th. For more information, go to the Alliance's website [here](#).

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This and back issues can be downloaded for free at www.extension.umd.edu/news/newsletters/branching-out.

All information, including links to external sources, was accurate and current at the time of publication. Please send any corrections, including updated links to Andrew A. Kling at akling1@umd.edu.

Send news items to Andrew A. Kling at akling1@umd.edu or 301-432-2767 ext. 307.