

Chapter 1

GENERAL PROVISIONS

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[HISTORY: Adopted by the Mayor and Council of Pocomoke City: Art. III, 1-6-1969 as part of Ord. No. 201 (§ 1-11 and 1-13 of the 1968 Code); Art. IV, 1-23-1984 as Ord. No. 276, approved 1-26-1984 (§ 1-17 of the 1968 Code); Art. V, 12-3-1984 as Ord. No. 279, approved 12-4-1984 (Ch. 25 of the 1968 Code). Amendments noted where applicable.]

ARTICLE I  
Adoption of Code

(An ordinance adopting Parts I and II of the Code of Pocomoke City and making certain substantive changes to existing ordinances of the city is presently proposed before the Mayor and Council. Upon final adoption, it will be included here as Article I of this chapter.)

§ 1-1 through 1-16. (Reserved)

ARTICLE II  
Charter Amendments

[During the process of codification, certain substantive changes were made to the Charter of Pocomoke City. These changes are noted in the Charter as "amended during codification; see Ch. 1, General Provisions, Art. II." These substantive changes will be adopted in accordance with the requirements of Article 23A of the Annotated Code of Maryland. During the course of supplementation, specific dates of adoption will be inserted into the Charter where pertinent.]

ARTICLE III  
Provisions Applicable to Entire Code  
[Adopted 1-6-1969 as part of Ord. No. 201  
(§ 1-11 and 1-13 of the 1968 Code)]

**§1-17. Definitions.**

In the construction of this Code and of all ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the Mayor and Council:

BOND -- When a bond is required, an undertaking in writing shall be sufficient.

CITY -- Pocomoke City in Worcester County, State of Maryland, except as otherwise provided.

COMPUTATION OF TIME -- The time within which an act is to be done shall be computed by excluding the first and including the last day, and, if the last day is a Sunday or a legal holiday, that day shall be excluded.

COUNCIL -- The City Council of Pocomoke City, Maryland.

COUNTY -- Worcester County, Maryland.

**§1-18. General penalty.**

Whenever in this Code or any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor and not specifically declared to be a municipal infraction, or whenever in such Code or ordinance the doing of any act is required or the failure to do an act is declared to be unlawful, where no specific penalty is provided therefor, the violator of any such provision of the Code or any ordinance shall be punished by a fine not exceeding one thousand dollars (\$1,000.) and/or imprisonment for up to six (6) months. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

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<sup>1</sup> Editor's Note: The definition of "gender," which immediately followed this definition, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>2</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE IV  
**Exemption from County Provisions**  
[Adopted 1-23-1984 as Ord. No. 276, approved  
1-26-1984 (§1-17 of the 1968 Code)]

**§ 1-19. Statutory authority; applicability of county laws.**

Under the authority conferred by Article 23A, § 2B(a)(3) of the Annotated Code of Maryland, Pocomoke City, effective January 1, 1984, exempts itself from the provisions of all laws of Worcester County enacted before or after that date and dealing with matters in which the city is lawfully empowered by state law or its own Charter to act. The only laws of Worcester County which will henceforth apply within Pocomoke City are those defined by Maryland law to apply and those which have been expressly adopted by reference by the city. This exemption shall not prevent Pocomoke City from reaching mutual agreement with Worcester County for the enforcement of specific laws of the county or city by county officials or their agents.

ARTICLE V  
**Municipal Infractions**  
[Adopted 12-3-1984 as Ord. No. 279, approved  
12-4-1984 (Ch. 25 of the 1968 Code)]

**§1-20. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

INFRACTION -- Any violation of this Code, which violation has been specifically declared to be an "infraction." For purposes of this Code, an "infraction" is a civil offense.

MISDEMEANOR:

- A. A criminal offense, not amounting to a felony, arising from a violation of a law of the state, which violation is defined as a "misdemeanor"; or
- B. Unless otherwise specified, a violation of any law of this city. Violations of this Code shall be treated as "misdemeanors" unless specifically declared to be municipal infractions.

**§ 1-21. Declaration; fine.**

The Council shall, by official act, declare the violation of which ordinance or ordinances shall be an infraction or infractions, and for each such violation, a specific fine shall be set. This fine shall never exceed one thousand dollars (\$1,000.) for any single, initial violation or one thousand dollars

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<sup>3</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>4</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

(\$1,000.) for each repeat or continuing violation. The fine shall be expressed as a discrete amount rather than being expressed in terms of a maximum or minimum amount. The authority to declare infractions and set fines shall not be delegated by the Council to any other administrative or legislative body.

#### § 1-22. Citations.

Those code enforcement officials authorized by the Council to enforce this Code may, after conducting an investigation into the facts and circumstances alleged in the affidavit or complaint, deliver a written warning or a citation to any person alleged to be committing an infraction. A copy of the citation shall be retained by the city and shall bear the certification of the enforcing official attesting to the truth of the matter set forth in the citation. The citation shall contain, at a minimum, the following information:

- A. The name and address of the person charged.
- B. The nature of the infraction.
- C. The location and time that the infraction occurred or was observed.
- D. The amount of the infraction fine assessed.
- E. The manner, location and time in which the fine may be paid to the city.
- F. The right of the accused to stand trial for the infraction.
- G. The enforcement officer's certification attesting to the truth of the matter set forth in the citation, or that the citation is based on an affidavit.
- H. The effect of failing to pay the assessed fine or demand a trial within the prescribed time.

#### **§1-23. Amount and payment of fine.**

The fine for an infraction shall be as specified in the law violated. The fine is payable by the recipient of the citation to the city within twenty (20) calendar days of receipt of the citation.

#### **§1-24. Hearings.**

The city shall not conduct any formal hearing for those persons in receipt of a citation of infraction. Any offender so cited may pay the fine as indicated in the citation or elect to stand trial for the offense. This provision shall not prevent an offender from requesting, either personally or through an attorney, additional information concerning the infraction.

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<sup>5</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

### **§1-25. Election to stand trial.**

A person receiving the citation for an infraction may elect to stand trial for the offense by notifying the city, in writing, of his or her intention of standing trial. The notice shall be given at least five (5) days prior to the date of payment as set forth in the citation. Upon receipt of the notice of the intention to stand trial, the city shall forward to the District Court having venue a copy of the notice from the person who received the citation indicating his or her intention to stand trial. Upon receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties or forfeitures collected by the District Court for violations of infractions shall be remitted to the general fund of the city.

### **§ 1-26. Failure to pay fine; notice; trial.**

If a person receiving a citation for an infraction fails to pay the fine for the infraction by the date of payment set forth on the citation and fails to file a notice of his or her intention to stand trial for the offense, a formal notice of the infraction shall be sent to the offender's last known address. If the citation has not been satisfied within fifteen (15) days from the date of the notice, he or she shall be liable for an additional fine not to exceed twice the original fine. If, after thirty-five (35) days, the citation has not been satisfied, the city may request adjudication of the case through the District Court. The District Court shall promptly schedule the case for trial and summon the defendant to appear.

### **§ 1-27. Conviction not construed as a criminal offense.**

Conviction of a municipal infraction, whether by the District Court or by payment of the fine to the city, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

### **§1-28. Court proceedings and rights of accused.**

In any proceeding for a municipal infraction, the accused shall have the same rights as for the trial of criminal cases. He or she shall have the right to cross-examine witnesses against him or her, to testify or introduce evidence in his or her own behalf and to be represented by an attorney of his or her own selection and at his or her own expense.