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[HISTORY: Adopted by the Mayor and Council of Pocomoke City 2-7-1966, effective 3-29-1966. Amendments noted where applicable.]

TITLE I
General Corporate Powers

§ C-1. General corporate powers.

The inhabitants of Pocomoke City within the corporate limits legally established from time to time, are hereby constituted and continued a body corporate by the name of "Pocomoke City," with all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession, unless the Charter and the corporate existence are legally abrogated.

TITLE II
Corporate Limits

§ C-2. Corporate limits.

The courses and distances showing the exact corporate limits of the City shall be filed at all times with the Clerk of the Circuit Court for Worcester County, the Commissioner of the Land Office and the Director of the Department of Legislative Reference. In addition, a copy of the courses and distances describing the corporate boundaries shall be on file in the office of the Mayor or of the City Manager. All the officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

TITLE III
The Council

§ C-3. Number, selection, term.

All legislative powers of the City shall be vested in a Council consisting of five Councilmen. Each Councilman shall be elected as hereinafter provided and shall hold office for a term of three years, or until the succeeding Councilman takes office. The regular term of Councilmen shall expire on the second Tuesday in April following the election of their successors. Councilmen holding office at the time this Charter becomes effective shall continue to hold office for the term for which they were elected and until the succeeding Councilmen take office under the provisions of this Charter.

§ C-4. Qualification of Council members. [Amended 1-20-1986 by Res. No. 153; 12-15-1986 by Res. No. 159; 8-7-1989 by Res. No. 185-A; 5-15-2000 by Res. No. 324; and 6-16-03 by Res. No. C-03-01]

Council members shall be at least twenty-one years of age, shall have resided in the City and the

legislative district which they seek to represent for at least one year immediately preceding their election, shall be registered voters of the City, and must reside in the legislative district which they represent. If a council member ceases to reside within the corporate limits, he or she must resign from office. If, however, a council member ceases to reside in the legislative district which he or she represents, and takes up residence in another district within the corporate limits, he or she must immediately resign unless there is less than twelve months remaining in the council member's term, in which case the council member will be allowed to complete the term of office.

§ C-5. Salary of Councilmen.

Each Councilman shall receive an annual salary which shall be equal for all Councilmen and shall be as specified from time to time by an ordinance passed by the Council in the regular course of its business; provided, however, that the salary specified at the time any Councilman takes office shall not be changed for that Councilman during the period for which he was elected. The ordinance making any change in the salary paid the several Councilmen, either by way of increase or decrease, shall be finally ordained prior to, the next municipal election for Councilmen and shall only become effective for each Councilman at the beginning of the succeeding term of office.

§ C-6. Meetings of the Council. [Amended 9-8-1987 by Res. No. 168]

The Council shall meet at a convenient time and date during the first week following an election for the purpose of organization, after which the Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. Special meetings shall be called by the City Manager upon the request of the Mayor or a majority of the members of the Council. All meetings of the Council herein provided for shall be open to the public, except for special closed sessions as authorized by State Sunshine laws, and the rules of the Council shall provide that the residents of the City shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question.

§ C-7. Council to be judge of qualifications of its members.

The Council shall be the judge of the election and qualification of its members.

§C-8. President of the Council. [Amended 12-20-1982 by Res. No. 132]

The Mayor shall serve as President of the Council. The Mayor may take part in all discussions, but shall have no vote. The Council shall elect a Vice-President and Second Vice-President of the Council from among its members who shall act as President of the Council in the absence of the

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[1] Editor's Note: See the Annotated Code of Maryland, Art. 41, ~ 1-205, and the State Government Article of the Annotated Code of Maryland, ~~ 10-501 through 10-512.

President and/or Vice-President of the Council as the case may be. In the absence of the Mayor and Vice-Presidents, the remaining Council members may designate one of its members to act as Temporary President of the Council until the return of the Mayor or Vice-Presidents.

§ C-9. Quorum.

A majority of the members of the Council shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any action taken without the favorable votes of a majority of the whole number of members elected to the Council.

§ C-10. Procedure of Council.

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to the public inspection.

§C-11. Vacancies in Council.

Vacancies in the Council shall be filled as provided in Section C-40 of this Charter.

§ C-12. Ordinances and resolutions. [Amended 10-14-1968 by Res. No. 18]

No ordinance or resolution shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Council held not less than six, nor more than sixty days, after the meeting at which an ordinance or resolution was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency the above requirement may be suspended by the affirmative votes of four members of the Council. Every ordinance or resolution, unless it be passed as an emergency ordinance or resolution shall unless otherwise provided in the ordinance or resolution, become effective upon approval by the Mayor or passage by the Council over his veto. A fair summary of each ordinance shall be published at least once in a newspaper or newspapers having general circulation in the municipality within thirty (30) days of its effective date. An emergency ordinance or resolution shall become effective on the date specified in the ordinance or resolution, but no ordinance or resolution shall become effective until approved by the Mayor or passed over his veto by the Council.

§ C-13. Veto.

All ordinances and resolutions passed by the Council shall be promptly delivered by the City Manager to the Mayor for his approval or disapproval. If the Mayor approves any ordinance or resolution, he shall sign it. If the Mayor disapproves any ordinance or resolution, he shall not sign it. The Mayor shall return all ordinances and resolutions to the City Manager within six days after delivery to him (including the days of delivery and return and excluding Sunday) with his approval or disapproval. Any ordinance approved by the Mayor shall be law. Any ordinance or resolution disapproved by the Mayor shall be returned with a message stating the reasons for his

disapproval. Any disapproved ordinance or resolution shall not become effective unless subsequently passed by a favorable vote of four-fifths of the whole Council within thirty-five calendar days from the time of the return of the ordinance or resolution. If the Mayor fails to return any ordinance or resolution within six days of the delivery as aforesaid, it shall be deemed to be approved by the Mayor and shall become effective in the same manner as an ordinance or resolution signed by him.

§ C-14. Files of ordinances and resolutions.

Ordinances and resolutions shall be permanently filed by the City Manager and shall be kept available for public inspection.

TITLE IV
The Mayor

§ C-15. Selection and term. [Amended 5-15-00 by Res. No. 323]

The Mayor shall be elected as hereinafter provided and shall hold office for a term of three (3) years or until his successor is elected and qualified. The newly elected Mayor shall take office on the Second Tuesday of April following his election.

§ C-16. Qualifications of Mayor. [Amended 12-15-1986 by Res. No. 160; 05-15-00 by Res. No. 324]

The Mayor must be at least twenty-five years of age, must have resided in the City for at least one year immediately preceding his election and must be a registered voter of the City. If the Mayor files a certificate of nomination for any municipal elective office other than Mayor, he or she must resign as Mayor effective 12:01 a.m. on the Second Tuesday in April of the current year.

§C-17. Salary of the Mayor.

The Mayor shall receive an annual salary as set from time to time by an ordinance passed by the Council in the regular course of business. Provided, however, that no change shall be made in the salary for any Mayor during the term for which he was elected. The ordinance making any change in the salary paid to the Mayor, either by way of increase or decrease, shall be finally ordained prior to the municipal election to elect the next succeeding Mayor, and shall take effect only as to the next succeeding Mayor.

§ C-18. Powers and duties.

A. The Mayor shall be recognized as head of the City government for all ceremonial

purposes.

B. The Mayor shall have the power to veto ordinances and resolutions passed by the Council as provided in Section C-13.

C. The Mayor shall have such other powers and perform such other duties as may be prescribed by this Charter, or as may be required of him by the Council, not inconsistent with this Charter.

TITLE V
City Manager

§ C-19. Appointment of City Manager.

The Council shall appoint an officer of the City who shall have the title of City Manager and shall have the powers and perform the duties as provided in this Charter. Neither the Mayor nor any member of the Council shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

§ C-20. Qualifications of Manager.

The City Manager shall be chosen on the basis of his executive ability and administrative qualifications with special reference being made to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office, as hereinafter set forth. At the time of his appointment, he need not be a resident of the City or the State of Maryland but during his tenure of office he shall reside within the City.

§ C-21. Salary of Manager.

The City Manager shall receive such compensation as the Council shall determine from time to time.

§ C-22. Removal of Manager.

The Council shall appoint the City Manager for an indefinite term and may remove him by a majority vote of its members. At least thirty days before such removal shall become effective, the Council shall, by a majority vote of its members, adopt a preliminary resolution stating the reason for his removal. The Manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after filing of such a request. After such public hearing, if one be requested, and after full consideration, the Council, by majority vote of its members, may adopt a final resolution of removal. By the preliminary resolution the Council may suspend the Manager from duty, but shall in any case cause to be paid him any unpaid balance of his salary and his salary for the next two calendar months following

adoption of the preliminary resolution.

§ C-23. Powers and duties.

A. The City Manager shall be responsible to the Mayor and Council for the proper administration of all affairs of the City and, to that end, subject to the personnel provisions of this Charter, he shall have power and shall be required to appoint and, when necessary for the good of the service, suspend or remove all officers and employees of the City except as otherwise provided by this Charter and except as he may authorize the head of a department or office to appoint, suspend or remove subordinates in such department or office. Neither the Mayor nor any member of the Council shall be appointed to any position of employment with the City during the term for which he shall have been elected, nor within one year after the expiration of his term. [Amended by Resolution No. 444 adopted May 2, 2011.]

B. The City Manager shall attend all Council meetings and shall arrange for minutes of all Council meetings to be recorded.

C. The City Manager shall have complete supervision over the financial administration of the City government. He shall prepare or have prepared annually a budget and submit it to the Council. He shall supervise the administration of the budget as adopted by the Council. He shall supervise the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.

D. The Manager shall perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.

TITLE VI
General Powers

§ C-24. General powers.

A. General powers outlined. The Council shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the City; for the protection and preservation of the City's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the City and visitors thereto and sojourners therein.

B. Specific powers. The Council shall have, in addition, the power to pass ordinances or resolutions not contrary to the laws and Constitution of this State, for the

following specific purposes:

(1) Advertising. To provide for advertising for the purposes of the City for printing and publishing statements as to the business of the City.

(2) Aisles. To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

(3) Amusements. To provide in the interest of the public welfare for licensing, regulating, or restraining theatrical or other public amusements.

(4) Appropriations. To appropriate municipal moneys for any purpose within the powers of the Council.

(5) Auctioneers. To regulate the sale of all kinds of property at auction within the City and to license auctioneers.

(6) Band. To establish a municipal band, symphony orchestra or other musical organization, and to regulate by ordinance or resolution the conduct and policies thereof.

(7) Billboards. To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the City, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the City.

(8) Bridges. To erect and maintain bridges.

(9) Buildings. To make reasonable regulations in regard to buildings and signs to be erected, constructed or reconstructed in the City, and to grant building permits for the same; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or taken down.

(10) Cemeteries. To regulate or prohibit the interment of bodies within the City and to regulate cemeteries.

(11) Codification. To provide for the codification of all ordinances which have been or may hereafter be passed.

(12) Community services. To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and

enlightenment of the inhabitants of the City.

(13) Cooperative activities. To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(14) Curfew. To prohibit the youth of the City from being in the streets, lanes, alleys, or public places at unreasonable hours of the night.

(15) Dangerous conditions. To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(16) Departments. To create, change, and abolish offices, departments, or agencies, other than the offices, departments and agencies established by this Charter; to assign additional functions or duties to offices, departments, or agencies established by this Charter, but not including the power to discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

(17) Disorderly houses. To suppress bawdy houses, disorderly houses and houses of ill fame.

(18) Dogs. To regulate the keeping of dogs in the City, and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of the same; to provide for the disposition of homeless dogs and dogs on which no license fee or taxes are paid.

(19) Elevators. To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(20) Explosives. To regulate or prevent the storage of gunpowder, oil, or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives, or any other similar things which may endanger persons or property.

(21) Filth. To compel the occupant of any premises, building or outhouse situated in the City, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.

(22) Finances. To levy, assess and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the City.

(23) Fire. To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the City; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of City fire-hazard regulations are met; to install and maintain fireplugs where and as necessary, and to regulate their use, and to take all other measures necessary to control and prevent fires in the City.

(24) Food. To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

(25) Franchises. To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the City, subject, however, to the limitations and provisions of Article 23 of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty (50) years.

(26) Gambling. To restrain and prohibit gambling.

(27) Garbage. To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal.

(28) Grants-in-aid. To accept gifts and grants of Federal or of State funds from the Federal or State governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(29) Hawkers. To license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the City, and to revoke such licenses for cause.

(30) Health. To protect and preserve the health of the City and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the City; to establish quarantine regulations and to authorize the removal and confinement of persons having contagious or infectious diseases, to prevent and remove all nuisances; to inspect, regulate and abate any buildings, structures or places which cause or may cause unsanitary conditions or conditions detrimental to health; provided, that nothing herein shall be construed to affect in any manner any of the powers and duties of the State Board of Health, the County Board of Health, or any public general or local law relating to the subject of health.

(31) House numbers. To regulate the numbering of houses and lots and to compel owners to renumber the same or in default thereof to authorize and require the same to be done by the City at the owner's expense, such expense to constitute a lien upon the property collectible as tax moneys.

(32) Jail. To establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the City or use the County jail for such purpose.

(33) Licenses. Subject to any restriction imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the City for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling, or place of amusement or business, to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(34) Liens. To provide that any valid charges, taxes or assessments made against any real property within the City shall be liens upon such property, to be collected as municipal taxes are collected.

(35) Lights. To provide for the lighting of the City.

(36) Livestock. To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs or other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(37) Markets. To obtain by lease or rent, own, construct, purchase, operate and maintain public markets within the City.

(38) Minor privileges. To regulate or prevent the use of public ways, sidewalks, and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements, and display of goods, wares and merchandise.

(39) Noise. To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns.

(40) Nuisances. To prevent or abate by appropriate ordinance all nuisances in the City which are so defined at common law, by this Charter, or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the City of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health. In this connection the City may regulate, prohibit, control the location of, or require the removal from the City of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitation.

(41) Obstructions. To remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the City.

(42) Parking facilities. To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate and maintain parking lots and other facilities for off-street parking.

(43) Parking meters. To install parking meters on the streets and public places of the City in such places as they shall by ordinance determine, and by ordinance to prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the State Highway Administration of Maryland must first be approved by the Administration.

(44) Parks and recreation. To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the City.

(45) Police force. To establish, operate, and maintain a police force. All City policemen shall, within the municipality, have the powers and authority of constables in this State.

(46) Police powers. To prohibit, suppress, and punish within the City all vice, gambling, and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity and drunkenness.

(47) Property. To acquire by conveyance, purchase or gift, real or leasable property for any public purposes, to erect buildings and structures thereon for the benefit of the City and its inhabitants; and to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the City.

(48) Quarantine. To establish quarantine regulations in the interests of the public health.

(49) Regulations. To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.

(50) Sidewalks. To regulate the use of sidewalks and all structures in, under or above the

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[2]Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions; to prescribe hours for cleaning sidewalks.

(51) Sweepings. To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, or other unwholesome materials into any public way or onto any public or private property in the City.

(52) Taxicabs. To license, tax and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters and expressman, and all other persons pursuing like occupations.

(53) Vehicles. To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(54) Voting machines. To purchase, lease, borrow, install, and maintain voting machines for use in City elections.

(55) Zoning. To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland, and such other legislation as the General Assembly of Maryland has passed or may subsequently pass.

(56) Indemnification. To provide for the defense and indemnification of municipal officials and employees against claims and legal actions arising out of or relating to their official duties or employment for or on behalf of the City. [Added 1-3-1979 by Res. No. 98, approved 1-3-1979]

C. Saving clause. The enumeration of powers in this section is not to be construed as limiting the powers of the City to the several subjects mentioned.

§ C-25. Exercise of powers.

For the purpose of carrying out the powers granted in this Title or elsewhere in this Charter, the Council may pass all necessary ordinances and resolutions. All the powers of the City shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

§C-26. Enforcement.

To ensure the observance of the ordinances of the city, the Council shall have the power to provide that

[3]Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

violation thereof shall be a misdemeanor or municipal infraction and shall have the power to affix thereto penalties of a fine not exceeding one thousand dollars ($1,000.) and/or imprisonment for up to six (6) months for misdemeanors. Any person subject to any fine, forfeiture or penalty by virtue of any ordinance passed under the authority of this Charter shall have the right of appeal within ten days to the Circuit Court of the county in which the fine, forfeiture, or penalty was imposed. The Council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

TITLE VII
Registration, Nominations, and Elections

§ C-27. Voters. [Amended 2-1-1971 by Res. No. 35, approved 2-2-1971; 4-19-1993 by Res. No. 225]

Every person who, (a) is a citizen of the United States, (b) is at least eighteen years of age, (c) has resided in the City for at least thirty days next preceding and City election, and (d) is registered in accordance with the provisions of this Charter, shall be a qualified voter of the City. Every qualified voter of the City shall be entitled to vote at any or all City elections, subject to the provisions of Section C-35 and any other applicable provisions of this Code.

§ C-28. Board of Supervisors of Elections. [Amended 5-15-2000 by Res. No. 327]

There shall be a Board of Supervisors of Elections consisting of five (5) members who shall be appointed by the Mayor with the approval of the Council on or before the fourth Monday in January in every even-numbered year. The terms of members of the Board of Supervisors of Elections shall begin on the first Monday in February in the year in which they are appointed and shall run for two years. Members of the Board of Supervisors of Elections shall be qualified voters of the City and shall not hold or be candidates for any elective office during their term of office. The board shall appoint one of its members as Chairman. Vacancies on the board shall be filled by the Mayor with the approval of the Council for the remainder of the unexpired term. The compensation of the members of the board shall be determined by the Council.

§ C-29. Removal.

Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Council, if he so requests within ten days after receiving the written copy of the charges against him.

§C-30. Duties.

The Board of Supervisors of Elections shall be in charge of the registration of voters, nominations and all City elections. The board may appoint election clerks or other employees to assist it in any of its duties.

§ C-31. Notice. [Amended 2-3-1975 by Res. No. 71; 5-15-2000 by Res. No. 326]

The Board of Supervisors of Elections shall give at least four (4) weeks' notice of every election by an advertisement published in at least one newspaper of general circulation in the City, and by posting a notice thereof in some public place or places in the City, and are authorized to give two weeks otice of the deadline for filing a certificate of nomination for election to the offices of city council or mayor in a manner the Board determines appropriate.

§ C-32. Reserved [Amended by Resolution No. 443 approved May 2, 2011]

§ C-33. Reserved [Amended by Resolution No. 443 approved May 2, 2011]

§C-34. Nominations. [Amended 5-15-2000 by Res. No. 325; and 06-16-03 by Res. C-03-01].

Persons may be nominated for elective office in the City by filing a certificate of nomination. The fee to file a certificate of nomination shall be $25.00. The certificate of nomination shall stated the following: (1) the office for which the candidate is seeking the nomination, and (2) the name of the candidate. The certificate shall be filed with the Board of Election Supervisors at least sixty calendar days prior to the election, except in the event a person currently holding a municipal elective office files a certificate of nomination and a letter or resignation from the currently held municipal elective public office, a candidate may file a certificate of nomination for the office affected by the resignation until a day which is thirty (30) days prior to the election. No person shall file for nomination to more than one elective public office or hold more than one elective public office at any one time.

§C-35. Election of Mayor and Councilmen.

A. **[Amended 5-15-2000 by Res. NO. 323]** On the first Tuesday in April in 1966 the Mayor shall be elected for a two-year term. On the first Tuesday in April every two years thereafter a Mayor shall be elected to serve for a period of two years, until the first Tuesday in April in 2002 and every three years thereafter, to serve for a period of three years.

B. **[Amended 1-6-1986 by Res. No. 151]** The City shall be divided by law into five (5) legislative districts for the election of members of the City Council. Each legislative district shall contain one Councilmember who shall be elected by the registered voters of that

[4]Editor's Note: This resolution also provided as follows: "Any section or sections of the existing Charter of Pocomoke City, Maryland which are inconsistent with this Amendment are hereby repealed."

legislative district only. All Council members shall serve for a period of three years. Notwithstanding the above, all presently elected Councilmembers shall be allowed to complete their present terms regardless of which district they reside in.

(1) Each legislative district shall consist of adjoining territory, be relatively compact in form, and include substantially the same population as other districts. Due regard shall be given to all constitutional standards in creating the legislative districts.

(2) From time to time as based on the latest U.S. Census Bureau data and after public hearing, the Council may reestablish boundaries of the legislative districts for elections of the members of the Council.

(3) The City shall retain the present staggered-term election system as originally established by Resolution No. 1 of 2-7-66 and included in the Charter of 1968. On the first Tuesday of April in 1986 the qualified voters of Legislative Districts 1 and 2 shall elect their respective Councilmembers. On the first Tuesday of April 1987 the qualified voters of Legislative District 3 shall elect their Councilmember. On the first Tuesday of April in 1988, the qualified voters of Legislative Districts 4 and 5 shall elect their respective Councilmembers. On the first Tuesday of April in 1989, and every year thereafter, each position on the Council which shall become vacant on the second Tuesday in April of that year shall be filled by an election of the qualified voters in that legislative district of the City.

§ C-36. Conduct of elections. [Amended 3-19-1973 by Res. No. 50, approved 3-20-1973]

It shall be the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open from 7:00 a.m. to 7:00 p.m. on election days or for longer hours if the Council requires it. In the event that there is no contest for any of the offices for which an election shall be proper, the Board of Supervisors of Elections are authorized and directed to cancel the election with respect to said office or offices after giving public notice thereof by publication for two successive weeks in a newspaper or newspapers having general circulation in the City, and to certify as elected the candidate or candidates therefor who have filed a valid certificate of nomination pursuant to Section C-34 of the Charter.

§ C-37. Special elections.

All special City elections shall be conducted by the Board of Supervisors of Elections in the same manner and with the same personnel, as far as practicable, as regular City elections.

§ C-38. Vote count.

Within twelve hours after the closing of the polls, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the City Manager who shall cause the results to be recorded in the minutes of the Council. The candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. The candidate or candidates for Councilman with the highest number of votes in each general election shall be declared elected as Councilmen.

§ C-39. Preservation of ballots and voting-machine totals.

All ballots used in any City election shall be preserved for at least six months from the date of the election. In any City election in which voting machines are used, after the voting machines have been locked against voting, a tabulation of votes appearing on the public counters shall be made, then all voting machines used shall be sealed for a six months' period. In the event that the voting machines used cannot be sealed for six months, the Mayor and Council shall pass an ordinance setting forth the procedure to be followed for a certification and the preservation of all votes cast on such voting machines.

§C-40. Vacancies. [Amended 8-8-1988 by Res. No. 179]

In case of a vacancy on the Council for any reason, the Council may either leave the office vacant until the next election for that District or fill such vacancy for the unexpired term by either appointing some qualified person to fill such vacancy or by a special election held either in conjunction with the next General Election or at any other time specified by the Council. In case of a vacancy in the office of Mayor for any reason, the Council may either leave the office vacant until the next General Election or fill such vacancy for the remainder of the term by either appointing some qualified person to fill the vacancy or by a special election.

§ C-41. Women.

Women shall have equal privileges with men in registering, voting, and holding City offices. Whenever the masculine gender has been used in this Charter, it shall be construed to include the feminine gender.

§ C-42. Regulation and control.

The Council shall have the power to provide by ordinance or resolution in every respect not covered by the provisions of this Charter for the conduct of registration, nomination, and City elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

§ C-42A. Election -- 1966.

Nothing contained in this Charter shall affect appointment of judges of election, registration officials, registration of voters, appointment of election officials, nomination and qualifications of candidates or the conduct of the election for Mayor and Councilmen to be held on the first Tuesday in April, in the year

1966. The election to be held on the first Tuesday in April, in 1966, shall be governed by the provisions of the Charter of the Mayor and Council of Pocomoke City in force and effect prior to the adoption of this Charter.

§ C-43. Penalties.

Any person who (a) fails to perform any duty required of him under the provisions of this Title or any ordinances passed thereunder, (b) in any manner willfully or corruptly violates any of the provisions of this Title or any ordinances passed thereunder, or (c) willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or City election, shall be deemed guilty of a misdemeanor. Any officer or employee of the City government who is convicted of a misdemeanor under the provisions of this section shall immediately, upon conviction thereof, cease to hold such office or employment.

TITLE VIII
Finance

§ C-44. City Clerk.

A. There shall be a City Clerk appointed by the City Manager with the approval of the Council. He shall serve at the pleasure of the City Manager. His compensation shall be determined by the Council.

B. The financial powers of the City, except as otherwise provided by this Charter, shall be exercised by the City Clerk under the direct supervision of the City Manager.

§ C-45. Powers and duties of City Clerk.

Under the supervision of the City Manager, the City Clerk shall have authority and shall be required to:

A. Prepare at the request of the City Manager an annual budget to be submitted by the City Manager to the Council.

B. Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.

C. Maintain a general accounting system for the City in such form as the Council may require, not contrary to State law.

D. Submit at the end of each fiscal year, and at such other times as the Council may require, a complete financial report to the Council through the City Manager.

E. Ascertain that all taxable property within the City is assessed for taxation.

F. Collect all taxes, special assessments, license fees, liens and all other revenues (including utility revenues) of the City and all other revenues for whose collection the City is responsible, and receive any funds receivable by the City.

G. Have custody of all public moneys, belonging to or under the control of the City, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the City.

H. Do such other things in relation to the fiscal or financial affairs of the City as the Mayor, Council or City Manager may require or as may be required elsewhere in this Charter.

§ C-46. Bond of City Clerk.

The City Clerk shall provide a bond with such corporate surety and in such amount as the Council by ordinance may require.

§ C-47. Fiscal year.

The City shall operate on an annual budget. The fiscal year of the City shall begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall constitute the tax year, the budget year and the accounting year.

§ C-48. Budget.

The City Manager, on such date as the Council by resolution shall determine, but at least thirty-two days before the beginning of any fiscal year, shall submit a budget to the Council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the City Manager and open to public inspection by any one during normal business hours.

§ C-49. Budget adoption.

Before adopting the budget the Council shall hold a public hearing thereon after two weeks' notice thereof in some newspaper or newspapers having general circulation within the municipality. The Council may insert new items or may increase or decrease the items of the budget. Where the Council shall increase the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to such proposed expenditures. The budget shall be prepared and adopted in the form of a resolution

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[5]Editor's Note: See Ch. 11, Budget.

before the first day of July in every year.

§C-50. Appropriations.

No public money may be expended without having been appropriated by the Council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

§ C-51. Transfer of funds.

Any transfer of funds between major appropriations for different purposes by the City Manager must be approved by the Council before becoming effective.

§ C-52. Overexpenditure forbidden.

No officer or employee shall, during any budget year expend or contract to expend any money or incur any liability or enter into any contract which, by its terms, involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter, shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

§ C-53. Appropriation lapse after one year.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

§ C-54. Checks. [Amended 12-20-1982 by Res. No. 132]

All checks issued in payment of salaries and other municipal obligations shall be issued and signed by the City Clerk or in the event of his absence or disability the Council may authorize some other officer of the City to issue and sign such checks. All checks must be countersigned by one of the Vice-Presidents of the City Council or in their absence, by the President of the City Council. In the absence of the President and Vice-Presidents of the City Council, the Temporary President of the Council must countersign the checks.

§ C-55. Taxable property.

All real property and all tangible personal property within the corporate limits of the City or personal property which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and county taxes. Except that the Mayor and Council may, whenever it shall seem expedient for the encouragement of the establishment of manufactures and manufacturing industries in the City, provide by ordinance for the exemption from taxation for municipal purposes, for a period of time not to exceed ten years, lands, machinery, tools, implements and buildings located in Pocomoke City and used by such manufactures in the usual conduct of their manufacturing business. No authority is given by this section to impose taxes on any property which is exempt from taxation by any Act of the General Assembly.

§ C-56. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding year and the tax rate determined shall be passed as a resolution by the Council.

§ C-57. Notice of tax levy.

Immediately after the levy is made by the Council in each year, the City Clerk shall give notice of the making of the levy by posting a notice thereof in some public place or places in the City. He shall make out and mail or deliver in person to each taxpayer or his agent at his last known address a bill or account of the taxes due from him. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this Charter all taxes levied on his property.

§ C-58. When taxes are overdue. [Amended 6-12-1972 by Res. No. 48; 8-2-1982 by Res. No. 130, approved 8-2-1982]

The taxes provided for in Section C-56 of this Charter shall be due and payable on the first day of July in the year for which they are levied, and shall be overdue and in arrears on the first day of the following October. Discounts for payments made prior to the first day of October shall be at the rate established by Resolution of the Council. Taxes shall bear interest while in arrears at the rate established by Resolution of the Council. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in Section C-59.

§ C-59. Sale of tax-deliquent property. [Amended 6-12-1972 by Res. No. 49]

A list of all property on which the City taxes have not been paid and which are in arrears, as provided by Section C-58 of this Charter, shall be turned over by the City Clerk to the official of the County responsible for the sale of tax delinquent property as provided in State law. All property listed thereon shall, if necessary and if not sold for taxes by this County official, be sold by the City Clerk, in the manner

prescribed by State law.

§ C-60. Fees.

All fees received by an officer or employee of the City government in his official capacity shall belong to the City government and be accounted for to the City.

§ C-61. Audit.

The financial books and accounts of the City shall be audited annually as required by Article 19 of the Annotated Code of Maryland, (1957 Edition, as amended).

§ C-61A. General obligation bonds. [Added 10-14-1968 by Res. No. 19]

The City shall have the power to borrow money for any public purpose, including the refinancing of any outstanding indebtedness, and to evidence such borrowing by the issue and sale of its general obligation bonds, or notes issued in anticipation thereof, the same to be issued and sold in the manner prescribed in Sections 31-37, inclusive, of Article 23A of the Annotated Code of Maryland (1957 Edition) (1966 Replacement Volume), title "Corporations-Municipal," subtitle "Home Rule," subheading "Creation of Municipal Public Debt," provided, however, that if the ordinance or ordinances authorizing the issue and sale of any of such bonds or notes shall so specify, the bonds or notes may be sold at private sale, without advertisement or publication of notice of sale, or solicitation of competitive bids.

§C-62. Tax-anticipation borrowing.

During the first six months of any fiscal year, the City shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year, and to issue tax-anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax-anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six months after the beginning of the fiscal year in which they are issued. No tax-anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax-anticipation indebtedness of the City to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which such notes or other evidences of indebtedness are issued. All tax-anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The Council shall have the power to regulate all matters concerning the issuance and sale of tax-anticipation notes.

§ C-63. Payment of indebtedness.

The power and obligation of the City to pay any and all bonds, notes, or other evidences of indebtedness issued by it under the authority of this Charter shall be unlimited and the City shall levy ad valorem taxes upon all the taxable property of the City for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the City is hereby

pledged for the payment of the principal of and the interest on all bonds, note, or other evidences of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance authorizing their issuance.

§ C-64. Previous issues.

All bonds, notes, or other evidences of indebtedness validly issued by the City previous to the effective date of this Charter and all ordinances or resolutions passed concerning them are hereby declared to be valid, legal and binding and of full force and effect as if herein fully set forth.

§ C-65. Purchasing and contracts. [Amended 4-16-1973 by Res. No. 51, approved 4-17-1973; 10-19-1987 by Res. No. 170; 11-20-1995 by Res. No. 266]

All purchases and contracts for the City government shall be made by the City Manager. The Council may provide by ordinance or resolution for rules and regulations regarding the use of competitive bidding and contracts for all City purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements, or contractual services involving more than five thousand dollars ($5,000.00) shall be made on written contract. The City Manager shall be required to advertise for sealed bids, in such manner as may be prescribed by ordinance or resolution for all such contracts except in those instances where the Council determines that it would be in the best interest of the City to waive the requirements for advertising and/or sealed bids. Such written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders being considered. All such written contracts shall be approved by the Council before becoming effective. The City Manager shall have the right to reject all bids and readvertise. The City Manager, at any time in his/her discretion, may employ City forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties and conditions as the City Manager may require.

§ C-66. City Attorney.

The Mayor, with the approval of the Council, may appoint a City Attorney. The City Attorney shall be a member of the Bar of the Maryland Court of Appeals. The City Attorney shall be the legal adviser of the City and shall perform such duties in this connection as may be required by the Council, Mayor or City Manager. His compensation shall be determined by the Council. The City shall have the power to employ such legal consultants as it deems necessary from time to time.

§ C-67. Authority to employ personnel.

The City shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other State law and to operate the City government.

§ C-68. Merit system.

The City may provide by ordinance or resolution for appointments and promotions in the administrative service on the basis of merit and fitness. To carry out this purpose the Council shall have the power to adopt such rules and regulations governing the operation of a merit system as it deems desirable or necessary. Among other things, these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from dismissal or other disciplinary action, and vacation and sick leave regulations.

§ C-69. Unclassified and classified service.

A. The Civil Service of the City shall be divided into the unclassified and classified service.

B. The unclassified service shall comprise the following offices and positions, which shall not be included within the merit system:

(1) The Mayor, the Councilmen, and persons appointed to fill vacancies in these positions.

(2) The City Manager and the City Attorney.

(3) The heads of all offices, departments and agencies and members of City boards and commissions.

(4) Part-time, temporary, and unpaid offices and positions.

C. The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted.

§ C-70. Prohibitions.

A. If a merit system is adopted, no person in the classified service of the City or seeking admission thereto shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of his political or religious opinions or affiliations or any other factors not related to ability to perform the work; no person shall willfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this Charter or of the rules and regulations made thereunder; no officer or employee in the classified service of the City shall continue in such position after becoming a candidate for nomination or election to any public office; no person seeking appointment to or promotion in the classified service of the City shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or on account of, or in connection with, his appointment, proposed appointment, promotion, or proposed promotion; no person shall orally, by letter, or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for

any political party or political purpose whatever from any person holding a position in the classified service of the City; no person holding a position in the classified service of the City shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs, or political campaign of any political campaign of any political party or candidate for public office, further than in the exercise of his right as a citizen to express his opinion and to cast his vote.

B. Any person who by himself or with others willfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars ($1,000.) and/or imprisonment for up to six (6) months. Any person who is convicted under this section shall, for a period of five years, be ineligible for appointment to or employment in a position in the City service, and shall, if he be an officer or employee of the City, immediately forfeit the office or position he holds.

§ C-71. Retirement system.

The City shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the City.

§ C-72. Compensation of employees.

The compensation of all officers and employees of the City shall be set from time to time by a resolution or ordinance passed by the Council, subject to the restrictions imposed upon establishing the salaries of the Councilmen and Mayor.

§ C-73. Employee benefit program.

The City is authorized and empowered, by ordinance or resolution, to provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and to expend public moneys of the City for such programs.

TITLE IX
Public Ways and Sidewalks

§ C-74. Definition of public ways.

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[6]Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

The term "public ways" as used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

§ C-75. Control of public ways.

The City shall have control of all public ways in the City except such as may be under the jurisdiction of the Maryland State Highway Administration. Subject to the laws of the State of Maryland and this Charter, the City may do whatever it deems necessary to establish, operate and maintain in good condition the public ways of the City.

§ C-76. Public ways: powers.

The City shall have the power:

A. To establish, regulate and change from time to time the grade lines, width, and construction materials of any City public way or part thereof, bridges, curbs, and gutters.

B. To grade, lay out, construct, open, extend and make new City public ways.

C. To grade, straighten, widen, alter, improve, or close up any existing City public way or part thereof.

D. To pave, surface, repave, or resurface any City public way or part thereof.

E. To install, construct, reconstruct, repair, and maintain curbs and/or gutters along any City public way or part thereof.

F. To construct, reconstruct, maintain and repair bridges.

G. To name the City public ways.

H. To have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof.

I. To require and order the owner of any property abutting on any public way in the City to perform any projects authorized by Subsection E of this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the City may do the work and the expense thereof shall be a lien on the property and shall be collectible in the same manner as are City taxes or by suit at law. [Added 3-20-1972 by Res. No. 44]

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[7]Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

§ C-77. Sidewalks: powers.

The City shall have the power:

A. To establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on City property along any public way or part thereof.

B. To grade, lay out, construct, reconstruct, pave, repave, repair, extend, or otherwise alter sidewalks on City property along any public way or part thereof.

C. To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, and other obstructions.

D. To require and order the owner of any property abutting on any public way in the City to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the City may do the work and the expense shall be a lien on the property and shall be collectible in the same manner as are City taxes or by suit at law.

TITLE X
Water and Sewers

§ C-78. Powers.

The City shall have the power:

A. To construct, operate and maintain a water system and and water plant.

B. To construct, operate, and maintain a sanitary sewerage system and a sewage treatment plant.

C. To construct, operate and maintain a storm-water drainage system and storm-water sewers.

D. To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above plants and systems.

E. To have surveys, plans, specifications, and estimates made for any of the above plants and systems or parts thereof or the extension thereof.

F. To do all things it deems necessary for the efficient operation and maintenance of the above plants and systems.

§ C-79. Placing structures in public ways.

Any public-service corporation, company, or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe, or other structure in the public ways of the City, shall submit plans to the City and obtain written approval upon such conditions and subject to such limitations as may be imposed by the City. Any public-service corporation, company, or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe or other structure interferes with the operation of the water, sewerage, or storm-water systems, the City may order it removed.

§ C-80. Obstructions.

All individuals, firms, or corporations having mains, pipes, conduits or other structures, in, on or over any public way in the City or in the County which impede the establishment, construction or operation of any City sewer or water main shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the City. If necessary to carry out the provisions of this section, the City may use its condemnation powers provided in Section C-94. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

§ C-81. Entering on county public ways.

The City may enter upon or do construction in, on or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the water system, water plant, sanitary sewerage system, sewage treatment plant, or storm-water sewers provided for in this Charter. Unless required by the county, the City need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before.

§ C-82. Connections.

The City shall provide a connection with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared for operation by the City, all abutting property owners, after reasonable notice, shall connect all fixtures with the water or sewer main. The City may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sink drains, and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

§C-83. Charge for connections.

The City may make a charge, the amount to be determined by the Council, for each connection made to the City's water or sewer mains. This charge shall be uniform throughout the City, but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made.

§ C-84. Improper uses.

In order to prevent any leakage or waste of water or other improper use of the City's water system or sewage disposal system, the City may require such changes in plumbing, fixtures or connections as it deems necessary to prevent such waste or improper use.

§ C-85. Private systems.

The City may, by ordinance, provide that no water supply, sewerage, or storm-water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health, and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the City. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

§ C-86. Extensions beyond boundaries.

The City shall have the power to extend its water or sewerage systems beyond the City limits.

§ C-87. Right of entry.

Any employee or agent of the City while in the necessary pursuit of his official duties with regard to the water or sewage disposal systems operated by the City, shall have the right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant, or person in possession, upon any premises and into any building in the City or in the county served by the City's water or sewage disposal system. Any restraint or hindrance offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, may, by ordinance, be made a misdemeanor.

§ C-88. Pollution of water supply.

No person shall do anything which will discolor, pollute or tend to pollute any water used or to be used in the City water supply system. Any violation of the provisions of this section shall be a misdemeanor.

§ C-89. Contracts for water.

The City, if it deems it advisable, may contract with any party or parties, inside or outside the City, to obtain water or to provide for the removal of sewage.

§ C-90. Charges. [Amended 02-07-2000 by Res. No. 321]

The City shall have the power to charge and collect such service rates, water rates, ready-to-serve charges, or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the City, and if bills are unpaid within thirty days, the service may be discontinued. Utility bills which are over 30 days in arrears be set at 16% per year. All charges shall be a lien on the property, collectible in the same manner as City taxes or by suit at law.

TITLE XI
Special Assessments

§ C-91. Power: special assessments.

The City shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction of parking lots, of water mains, sanitary sewer mains, storm-water sewers, curbs, and gutters and by the construction and paying of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the City, and any other item of cost which may reasonably be attributed to the project.

§ C-92. Procedure.

The procedure for special assessments, wherever authorized in this Charter, shall be as follows:

A. The cost of the project being charged for shall be assessed according to the front-foot rule of apportionment or some other equitable basis determined by the Council.

B. The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the City and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

C. When desirable, the affected property may be divided into different classes to be charge different rates, but, except for this, any rate shall be uniform.

D. All special assessment charges shall be levied by the Council by ordinance. Before levying

any special assessment charges, the Council shall hold a public hearing. The City Manager shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the City. The City Manager shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten days and not more than thirty days after the City Manager shall have completed publication and service of notice, as provided in this section. Following the hearing the Council, in its discretion, may vote to proceed with the project and may levy the special assessment.

E. Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for the County within ten days after the levying of any assessment by the Council.

F. Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed thirty years, and in such manner as the Council may determine. The Council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Council.

G. All special assessment installments shall be overdue six months after the date on which they became due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as City taxes or by suit at law.

H. All special assessments shall be billed and collected by the City Clerk.

TITLE XII
Town Property

§ C-93. Acquisition, possession and disposal.

The City may acquire real, personal, or mixed property, for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease or otherwise dispose of any property belonging to the City. All municipal property, funds, and franchises of every kind belonging to or in the possession of the City (by whatever prior name known) at the time this Charter becomes effective are vested in the City, subject to the terms and conditions thereof.

§ C-94. Condemnation.

The City shall have the power to condemn property of any kind, or interest therein, or franchise connected therewith, in fee or as an easement, for any public purpose. Any activity, project, or improvement authorized by the provisions of this Charter or any other State law applicable to the City, shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in the Real Property Article of the Annotated Code of Maryland, §12-101 et seq.

§ C-95. City buildings.

The City shall have the power to acquire, to obtain by lease or rent, to purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the City government.

§ C-96. Protection of city property.

The City shall have the power to do whatever may be necessary to protect City property and to keep all City property in good condition.

TITLE XIII
General Provisions

§ C-97. Oath of office.

A. Before entering upon the duties of their offices, the Mayor, the Councilmen, the City Manager, the members of the Board of Supervisors of Elections, and all other persons elected or appointed to any office of profit or trust in the City government shall take and subscribe the following oath or affirmation:

"I, _____ do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of _____ , according to the Constitution and Laws of this State."

B. The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for the County or before one of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor.

§ C-98. Official bonds.

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[8]Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

The City Manager, the City Clerk and such other officers or employees of the City as the Council or this Charter may require, shall give bond in such amount and with such surety as may be required by the Council. The premiums on such bonds shall be paid by the City.

§ C-99. Prior rights and obligations.

All right, title and interest held by the City or any other person or corporation at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the City, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeded with and prosecuted to final determination and judgment as if this Charter had not become effective.

§ C-100.

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[9]Editor's Note: Former Section C-100, Misdemeanors, was deleted during codification; see Ch. 1, General Provisions, Art. II. See now § C-26 of this Charter.

Chapter 1

GENERAL PROVISIONS

ARTICLE I
Adoption of Code

§§ 1-1 through 1-16. (Reserved)

ARTICLE II
Charter Amendments

ARTICLE III

Provisions Applicable to Entire Code

§ 1-17. Definitions.
§ 1-18. General penalty.

ARTICLE IV
Exemption from County Provisions

§ 1-19. Statutory authority; applicability

ARTICLE V
Municipal Infractions

§ 1-20. Definitions.
§ 1-21. Declarations; fine;
§ 1-22. Citations.
§ 1-23. Amount and payment of fine.
§ 1-24. Hearings
§ 1-25. Election to stand trail.
§ 1-26. Failure to pay fine; notice; trail.
§ 1-27. Conviction not construed as a criminal offense.
§ 1-28. Court proceedings and rights of accused.

of county laws.

[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.

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 ($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.

§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.

Chapter 11

BUDGET

§ 11-1. Submission by Manager.
§ 11-2. Notice of public hearing.
§ 11-3. Copy to be posted.
§ 11-4. Amendents; action by Council.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 3-18-1968 as Res. No. 13. Amendments noted where applicable.]

GENERAL REFERENCES

Charter- See §C-48.

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§11-1. Submission by Manager.

The City Manager is hereby ordered and directed to submit to the Council on or before the first Monday in May in each and every year a budget containing an itemized estimate of anticipated revenues and proposed expenditures for the coming fiscal year prepared in accordance with the Code of Public General Laws of Maryland.

§ 11-2. Notice of public hearing.

Commencing in the week of the third Monday in May the City Manager shall cause to be published for two (2) weeks in some newspaper or newspapers having general circulation within the city a notice of a public hearing to be held on the first Monday in June to consider the budget for the coming fiscal year.

§ 11-3. Copy to be posted.

As soon as practicable after the third Monday of May the City Manager shall post in public and make available for inspection to anyone during regular business hours a copy of the proposed budget.

§11-4. Amendments; action by Council.

The City Manager shall make such changes in the budget as shall be directed by the Council and shall submit the budget as amended or changed to the Council at its meeting on or before the third Monday of June at which time it is the intent of the Council that a resolution approving and adopting said budget shall be introduced, read and acted upon.

Chapter 17

COMMERCIAL DISTRICT MANAGEMENT AUTHORITY

§ 17-1. Downtown Business District.
§ 17-2. Definitions.
§ 17-3. Business association.
§ 17-4. Annual license; fee.
§ 17-5. Special fund.
§ 17-6. Penalty for late payment; interest.
§ 17-7. Appeals Board.
§ 17-8. Appeals.
§ 17-9. Applicability of other laws.
§ 17-10. Rules and requlations.
§ 17-11. Disposition of funds.
§ 17-12. Purpose; limitation of powers.
§ 17-13. Licensing period.
Exhibit A

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 10-16-1989 as Ord. No. 304. Amendments noted where applicable.]

§ 17-1. Downtown Business District.

The area located within the boundaries set forth herein is hereby declared to be a commercial district and may be referred to as the "Downtown Business District," described as follows: the geographic limits of the Authority shall be Market Street from the Pocomoke River to Third Street; Vine Street and Willow Street from Front Street to Second Street; and Front Street,

Clarke Avenue and Second Street from Willow Street to Vine Street.

§ 17-2. Definitions.

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

BUSINESS ASSOCIATION -- The incorporated organization of persons who operate retail, service, rental or professional businesses within the Downtown Business District which provides management and promotional services for the district.

BUSINESS ESTABLISHMENT -- Any retail, service, rental or professional business entity.

DOWNTOWN BUSINESS DISTRICT -- A designated geographic area in the City of Pocomoke City encompassing a concentration of retail and/or personal service business establishments.

EXEMPT ESTABLISHMENT -- Any business establishment which is:

A. Operated solely by a federal, state or local government entity, except for city-owned farmers markets as described in ~ 17-4A;

B. Operated by a nonprofit organization which is not engaged in a retail business;

C. Operated primarily for the manufacture of products to be sold at wholesale in the district; or

D. A parking lot.

LICENSABLE SPACE -- The number of square feet of space in a business establishment subject to the license fee in accordance with the fee calculation method as set forth in Exhibit A. Space used primarily for warehousing shall not be included for purposes of determining licensable square footage.

MAIN FLOOR -- The largest primary business floor of the retail establishment.

PERSON -- Includes any individual, firm, corporation, partnership or joint venture.

§17-3. Business association.

A. A business association of the district comprised of the licensees of the district

shall be incorporated under the laws of Maryland and a copy of its charter and bylaws shall be filed with the City Clerk. The bylaws shall include, without limitation, membership requirements, voting rights and procedures for calling meetings and voting on rates, budgets and related matters. The bylaws shall provide that each licensee shall have one (1) vote per licensed business establishment. The business association shall be responsible for the conduct of a management program to provide promotional services for the district and for the administration of the funds provided through the license fee procedure set forth in this chapter. Voting on all budgetary matters shall be by the majority of the licensees, and no vote shall carry except by a majority of the votes cast.

B. The business association created pursuant to this chapter shall provide in its bylaws that the business association cannot be dissolved except upon an affirmative vote of seventy-five percent (75%) of its members, which must be ratified by the Mayor and City Council by ordinance.

C. On an annual basis, the business association representing the district shall file with the City Clerk:

(1) An annual budget setting forth projected expenditures for advertising, promotions and related activities and administrative expenses.

(2) Any amendments to the charter or bylaws made during the preceding year.

(3) A letter of intent of the business association to expend the funds transferred to the district in accordance with the annual budget.

D. In the event that the business association representing the district intends to request from the City Council of the City of Pocomoke City additional funds, it shall comply with all procedures associated with the normal budget process, and a request for funds and a budget must be submitted to the City Manager no later than March 1 of each year in which it intends to request additional funds.

§ 17-4. Annual license; fee.

A. No person shall operate any business establishment within the Downtown Business District without obtaining an annual license to be known as the "Downtown Business District license" from the Clerk of the City of Pocomoke City. The operator of any exempt establishment shall not be required to obtain a business district license and shall not be eligible to use the management services provided by the business association for the district. To the extent that the Downtown Business District includes within its boundaries a farmers market owned by the City of Pocomoke City, any business operated by any merchant in such market shall be included within the Downtown Business District and subject to this chapter.

B. The fee for the Downtown Business District license shall be as set forth in Exhibit A attached hereto.

C. The business association shall certify to the Pocomoke City Clerk on a yearly basis the following:

(1) The name, business address and mailing address of the person(s) responsible for payment of the Downtown Business District license fee for each business establishment.

(2) The fee due from each business establishment, other than an exempt establishment.

D. The Downtown Business District license fee shall be in five (5) categories as follows:

(1) Category 1: one (1) to one thousand (1,000) square feet.

(2) Category 2: one thousand one (1,001) to two thousand five hundred (2,500) square feet.

(3) Category 3: two thousand five hundred one (2,501) to four thousand (4,000) square feet.

(4) Category 4: four thousand one (4,001) square feet and above.

(5) Category 5: unoccupied buildings and nonretail businesses.

E. The Clerk shall collect the fee from the responsible person of each business establishment. The Downtown Business District license fee shall be due and payable on January 1 of each and every year, and the entire charge prescribed for the year shall be collected when the license is issued.

F. Subject to all applicable provisions of other ordinances of the City of Pocomoke City, statutes of Maryland and laws of the federal government, the Downtown Business District license shall be transferable, upon written notice to the Clerk, and renewable from year to year during the continuous operation of the business by the Downtown Business District licensee within the Downtown Business District and so long as such area continues to be designated as a commercial district.

G. In the event that any person commences business operations in the Business District subsequent to January 1 in any year, the Clerk may prorate the amount of the fee due and payable based on the number of full months of operation during the licensing year. There shall be no refund for any business that ceases operation

during the licensing year.

§ 17-5. Special fund.

A. The Clerk shall maintain a special fund account for the Downtown Business District, and said special fund shall be credited with the collections of the Downtown Business District license fees from the district.

B. The Mayor and Council may set a reasonable fee to be charged to the district for the collection, accounting, legal and administrative services performed by the city, in an amount not to exceed the actual cost of the services.

C. Each year, on a quarterly basis, the Clerk shall transfer to the business association for the district the license fees collected for the district, less any administrative fees charged.

D. The fund comprised of the license fees collected for the district in accordance with this chapter shall be utilized solely for the purposes determined by the licensees.

§ 17-6. Penalty for late payment; interest.

Any person liable to pay the Downtown Business District license fee who fails to pay the same within thirty (30) days after billing date shall be subject to a civil penalty of ten percent (10%) of the fee and interest at the rate of one percent (1%) per month, or a fraction thereof, in addition to the annual license fee. The Appeals Board created herein is authorized for good and sufficient cause to waive the imposition of this penalty and interest in its entirety or a portion thereof prior to the institution of civil prosecution. Failure to pay said penalty and interest when due shall subject the violator to civil prosecution, including possible liens, payment of court costs and reasonable attorneys' fees.

§ 17-7. Appeals Board.

There shall be an Appeals Board to hear and decide appeals arising under this chapter. The members of the Appeals Board shall be appointed by the Mayor and Council of the City of Pocomoke City. The Appeals Board, by a majority vote thereof, shall have the authority to reverse or affirm, wholly or partially, or modify the determination, decision, order or notice appealed from and may give or make such determination, decision, order or notice as ought to be made; provided, however, that nothing contained herein shall be construed as authorizing the Appeals Board to waive, set aside or in any manner change any provision or provisions of this chapter, other than as authorized in the penalty section and as to any question arising as to the determination of square footage, or any decision made by the Mayor and the City Council pursuant to this chapter.

§ 17-8. Appeals.

If any licensee or prospective licensee who is or will be liable for the payment of the Downtown Business District license fee disagrees with or is aggrieved by any determination, decision, order or notice of any kind which is made, rendered, issued or given under the provisions of this chapter, such licensee or prospective licensee, within thirty (30) days after written notice of such action or determination has been given or mailed to him or her, shall have the right to bring the matter in dispute before the Appeals Board by written request setting forth in full the reasons for said appeal.

§ 17-9. Applicability of other laws.

Any person who owns or operates a business establishment in the Downtown Business District shall be subject to all applicable provisions of all other ordinances of the City of Pocomoke City, statutes of Maryland and the laws of the federal government.

§ 17-10. Rules and regulations.

The Mayor and Council of Pocomoke City are hereby authorized and empowered to make, adopt, promulgate and amend, from time to time, such rules and regulations as the Mayor and Council deem necessary or proper to carry out and enforce the provisions of this chapter and to define or construe any of the terms or provisions of this chapter, including rules for the Appeals Board created herein. A copy of said rules and regulations, when created, shall be filed with the City Clerk of the City of Pocomoke City.

§ 17-11. Disposition of funds.

Any fees imposed under this chapter shall be used only for the purposes stated in this chapter and may not revert to the general fund of the City of Pocomoke City.

§ 17-12. Purpose; limitation of powers.

A. The purpose of the Commercial District Management Authority shall be promotion and marketing.

B. The Authority established pursuant to this chapter may not exercise the power of eminent domain; purchase, sell, construct or, as a landlord, lease office or retail space; or, except as otherwise authorized by law, otherwise engage in competition with the private sector.

§ C-101. Effect of Charter on existing ordinances.

A. All ordinances, resolutions, rules, and regulations in effect in the City at the time this Charter becomes effective, which are not in conflict with the provisions of this Charter

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§ 17-13. Licensing period.

For the purposes of the Downtown Business District specified in this chapter, the initial licensing period shall begin January 1, 1990, and shall end December 31, 1990, and subsequent licensing periods shall begin January 1 of each year thereafter, with bills due and payable thirty (30) days from the date of billing.

Exhibit A
Pocomoke City, Maryland
Commercial District Management Authority
Licensing Fee Schedule

An annual membership fee will be assessed on all businesses, professions and owners of vacant buildings in the above-described boundaries. The fee will be based on the square footage of the space occupied by that business or profession as follows, except that where a business or profession occupies two (2) or more floors, then only the first floor will be counted:

Category	**Occupied Space (square feet)**	**Fee**
1	1 to 1,000	$50.00
2	1,001 to 2,500	$75.00
3	2,501 to 4,000	$100.00
4	4,001 and above	$125.00
5	All unoccupied buildings and nonretail businesses	A flat fee of $50.00 per year

The fees will be levied on the first day of January each year.

Any business or profession starting in the described area will pay a prorated fee based on one-twelfth (1/12) of the fee due for each full month remaining in the fiscal year.

shall remain in effect until changed or repealed according to the provisions of this Charter.

B. All ordinances, resolutions, rules and regulations in effect in the City at the time this Charter becomes effective, which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict.

§ C-102. Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

PREFACE

In 1670, Colonel William Stevens established a ferry across the Pocomoke River near the present-day Pocomoke City. A small settlement developed near the ferry landing, and it was called "Stevens Landing." This site had also been used by a New England fur trader as a trading post.

In 1683-1684 the Rev. Francis Makemie built a Presbyterian log meeting house at this location, and the settlement became known as "Meeting House Landing."

In 1700 tobacco trade began to prosper, and under the law tobacco was made legal tender. A large tobacco warehouse was built on the hill, and the name of the settlement was changed to "Warehouse Landing."

In 1780 Worcester County was properly surveyed and divided into districts. This area was included in Newtown District, and the name of the settlement was changed to "New Town." In 1865 an act by the State Legislature authorized five (5) Commissioners for the town and allowed the town to incorporate as the "Town of New Town."

In 1878 the Legislature authorized the town to reincorporate and change its name to "Pocomoke City." The name "Pocomoke" is said to be the Indian name for the river, meaning "black water."

Throughout its history Pocomoke City has been a center for trade and manufacturing. During the late 19th and early 20th Centuries, the town was the home of three shipbuilding companies which built three- and four-masted schooners, among other ships. In earlier days, much of the town's commerce was provided by ships which could easily follow the Pocomoke River to the Chesapeake Bay and Atlantic Ocean.

Now located at the intersection of Routes 13 and 113, Pocomoke City remains a business center serving a wide radius of the surrounding area. The Pocomoke City Industrial Park is the home of several manufacturers, such as Beretta USA (handguns), Bel-Art (plastics) and Mid-Atlantic Foods (seafood products). The town offers a wide variety of stores and services, primarily along Route 13 and in its beautiful downtown shopping district near the river. Tourists can enjoy Costen House, parks, golf, boat docks and a variety of restaurants and motels to welcome them to our community.

Pocomoke City has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the city, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the city. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Mayor and Council ordered the following codification of the city's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation (ordinances and resolutions) of a general and permanent nature enacted by the Mayor and Council of Pocomoke City, including revisions or amendments to existing legislation deemed necessary by the Mayor and Council in the course of the codification.

Division of Code

The Code is divided into two major divisions. The first division includes the Charter of the city. The second division includes all legislation of a general and permanent nature as Parts I and II. Part I, Administrative Legislation, contains all city legislation of an administrative nature, such as that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other city legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, titles of the several Articles or Parts are listed beneath the chapter title in order to facilitate location of the individual item of legislation.

Reserved Chapters

Space has been provided in the Code for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters entitled "(Reserved)." In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

Pagination

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals "01." Thus, Chapter 6 begins on page 601, Chapter 53 on page

5301, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 is ~ 6-1, while the fourth section of Chapter 53 is ~ 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between ~~ 53-4 and 53-5, they would be numbered as ~~ 53-4.1 and 53-4.2.

Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing Parts or Articles derived from more than one item of legislation, the source of each Part or Article is indicated in the History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification
Amendments and Revisions

New chapters adopted during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections amended or revised are indicated in the text by means of Editor's Notes referring to the chapter cited above.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

Disposition List

The Disposition List is a chronological listing of legislation adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between ~~ 45-5 and 45-6 should be designated ~ 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with ~ 45-30 and Article XVII begins with ~ 45-31, Article XVIA should contain ~~ 45-30.1 through 45-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the city officials is gratefully acknowledged by the editor. The codification of the legislation of Pocomoke City reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

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

[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].

§1-18. General penalty[2].

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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[1] 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.

[2] 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[3].

§ 1-21. Declaration; fine[4].

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 ($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

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[3]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[4]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

to declare infractions and set fines shall not be delegated by the Council to any other administrative or legislative body.

§ 1-22. Citations.[5]

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.

§1-25. Election to stand trial.

A person receiving the citation for an infraction may elect to stand trial for the offense by

[5]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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.

Chapter 11

BUDGET

§ 11-1. Submission by Manager.
§ 11-2. Notice of public hearing.
§ 11-3. Copy to be posted.
§ 11-4. Amendents; action by Council.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 3-18-1968 as Res. No. 13. Amendments noted where applicable.]

GENERAL REFERENCES

Charter- See §C-48.

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§11-1. Submission by Manager.

The City Manager is hereby ordered and directed to submit to the Council on or before the first Monday in May in each and every year a budget containing an itemized estimate of anticipated revenues and proposed expenditures for the coming fiscal year prepared in accordance with the Code of Public General Laws of Maryland.

§ 11-2. Notice of public hearing.

Commencing in the week of the third Monday in May the City Manager shall cause to be published for two (2) weeks in some newspaper or newspapers having general circulation within the city a notice of a public hearing to be held on the first Monday in June to consider the budget for the coming fiscal year.

§ 11-3. Copy to be posted.

As soon as practicable after the third Monday of May the City Manager shall post in public and make available for inspection to anyone during regular business hours a copy of the proposed budget.

§11-4. Amendments; action by Councili.

The City Manager shall make such changes in the budget as shall be directed by the Council and shall submit the budget as amended or changed to the Council at its meeting on or before the third Monday of June at which time it is the intent of the Council that a resolution approving and adopting said budget shall be introduced, read and acted uponii.

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[i] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[ii]Editor's Note: Original Section 5, which immediately followed this section and dealt with a special meeting to act upon the budget, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 17

COMMERCIAL DISTRICT MANAGEMENT AUTHORITY

§ 17-1. Downtown Business District.
§ 17-2. Definitions.
§ 17-3. Business association.
§ 17-4. Annual license; fee.
§ 17-5. Special fund.
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§ 17-11. Disposition of funds.
§ 17-12. Purpose; limitation of powers.
§ 17-13. Licensing period.
Exhibit A

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 10-16-1989 as Ord. No. 304. Amendments noted where applicable.]

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§ 17-1. Downtown Business District.

The area located within the boundaries set forth herein is hereby declared to be a commercial district and may be referred to as the "Downtown Business District," described as follows: the geographic limits of the Authority shall be Market Street from the Pocomoke River to Third Street; Vine Street and Willow Street from Front Street to Second Street; and Front Street, Clarke Avenue and Second Street from Willow Street to Vine Street.

§ 17-2. Definitions.

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

BUSINESS ASSOCIATION -- The incorporated organization of persons who operate retail, service, rental or professional businesses within the Downtown Business District which provides management and promotional services for the district.

BUSINESS ESTABLISHMENT -- Any retail, service, rental or professional business entity.

DOWNTOWN BUSINESS DISTRICT -- A designated geographic area in the City of Pocomoke City encompassing a concentration of retail and/or personal service business establishments.

EXEMPT ESTABLISHMENT -- Any business establishment which is:

A. Operated solely by a federal, state or local government entity, except for city-owned farmers markets as described in ~ 17-4A;

B. Operated by a nonprofit organization which is not engaged in a retail business;

C. Operated primarily for the manufacture of products to be sold at wholesale in the district; or

D. A parking lot.

LICENSABLE SPACE -- The number of square feet of space in a business establishment subject to the license fee in accordance with the fee calculation method as set forth in Exhibit A. Space used primarily for warehousing shall not be included for purposes of determining licensable square footage.

MAIN FLOOR -- The largest primary business floor of the retail establishment.

PERSON -- Includes any individual, firm, corporation, partnership or joint venture.

§17-3. Business association.

A. A business association of the district comprised of the licensees of the district shall be incorporated under the laws of Maryland and a copy of its charter and bylaws shall be filed with the City Clerk. The bylaws shall include, without limitation, membership requirements, voting rights and procedures for calling meetings and voting on rates, budgets and related matters. The bylaws shall provide that each licensee shall have one (1) vote per licensed business establishment. The business association shall be responsible for the conduct of a management program to provide promotional services for the district and for the administration of the funds provided through the license fee procedure set forth in this chapter. Voting on all budgetary matters shall be by the majority of the licensees, and no vote shall carry except by a majority of the votes cast.

B. The business association created pursuant to this chapter shall provide in its bylaws that the business association cannot be dissolved except upon an affirmative vote of seventy-five percent (75%) of its members, which must be ratified by the Mayor and City Council by ordinance.

C. On an annual basis, the business association representing the district shall file with the City Clerk:

(1) An annual budget setting forth projected expenditures for advertising, promotions and related activities and administrative expenses.

(2) Any amendments to the charter or bylaws made during the preceding year.

1Editor's Note: Exhibit A is located at the end of this chapter.

(3) A letter of intent of the business association to expend the funds transferred to the district in accordance with the annual budget.

D. In the event that the business association representing the district intends to request from the City Council of the City of Pocomoke City additional funds, it shall comply with all procedures associated with the normal budget process, and a request for funds and a budget must be submitted to the City Manager no later than March 1 of each year in which it intends to request additional funds.

§ 17-4. Annual license; fee.

A. No person shall operate any business establishment within the Downtown Business District without obtaining an annual license to be known as the "Downtown Business District license" from the Clerk of the City of Pocomoke City. The operator of any exempt establishment shall not be required to obtain a business district license and shall not be eligible to use the management services provided by the business association for the district. To the extent that the Downtown Business District includes within its boundaries a farmers market owned by the City of Pocomoke City, any business operated by any merchant in such market shall be included within the Downtown Business District and subject to this chapter.

B. The fee for the Downtown Business District license shall be as set forth in Exhibit A attached hereto.

C. The business association shall certify to the Pocomoke City Clerk on a yearly basis the following:

(1) The name, business address and mailing address of the person(s) responsible for payment of the Downtown Business District license fee for each business establishment.

(2) The fee due from each business establishment, other than an exempt establishment.

D. The Downtown Business District license fee shall be in five (5) categories as follows:

(1) Category 1: one (1) to one thousand (1,000) square feet.

(2) Category 2: one thousand one (1,001) to two thousand five hundred (2,500) square feet.

(3) Category 3: two thousand five hundred one (2,501) to four thousand

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2 Editor's Note: Exhibit A is located at the end of this chapter.

(4,000) square feet.

(4) Category 4: four thousand one (4,001) square feet and above.

(5) Category 5: unoccupied buildings and nonretail businesses.

E. The Clerk shall collect the fee from the responsible person of each business establishment. The Downtown Business District license fee shall be due and payable on January 1 of each and every year, and the entire charge prescribed for the year shall be collected when the license is issued.

F. Subject to all applicable provisions of other ordinances of the City of Pocomoke City, statutes of Maryland and laws of the federal government, the Downtown Business District license shall be transferable, upon written notice to the Clerk, and renewable from year to year during the continuous operation of the business by the Downtown Business District licensee within the Downtown Business District and so long as such area continues to be designated as a commercial district.

G. In the event that any person commences business operations in the Business District subsequent to January 1 in any year, the Clerk may prorate the amount of the fee due and payable based on the number of full months of operation during the licensing year. There shall be no refund for any business that ceases operation during the licensing year.

§ 17-5. Special fund.

A. The Clerk shall maintain a special fund account for the Downtown Business District, and said special fund shall be credited with the collections of the Downtown Business District license fees from the district.

B. The Mayor and Council may set a reasonable fee to be charged to the district for the collection, accounting, legal and administrative services performed by the city, in an amount not to exceed the actual cost of the services.

C. Each year, on a quarterly basis, the Clerk shall transfer to the business association for the district the license fees collected for the district, less any administrative fees charged.

D. The fund comprised of the license fees collected for the district in accordance with this chapter shall be utilized solely for the purposes determined by the licensees.

§ 17-6. Penalty for late payment; interest.

Any person liable to pay the Downtown Business District license fee who fails to pay the same within thirty (30) days after billing date shall be subject to a civil penalty of ten percent (10%) of the fee and interest at the rate of one percent (1%) per month, or a fraction thereof, in addition to

the annual license fee. The Appeals Board created herein is authorized for good and sufficient cause to waive the imposition of this penalty and interest in its entirety or a portion thereof prior to the institution of civil prosecution. Failure to pay said penalty and interest when due shall subject the violator to civil prosecution, including possible liens, payment of court costs and reasonable attorneys' fees.

§ 17-7. Appeals Board.

There shall be an Appeals Board to hear and decide appeals arising under this chapter. The members of the Appeals Board shall be appointed by the Mayor and Council of the City of Pocomoke City. The Appeals Board, by a majority vote thereof, shall have the authority to reverse or affirm, wholly or partially, or modify the determination, decision, order or notice appealed from and may give or make such determination, decision, order or notice as ought to be made; provided, however, that nothing contained herein shall be construed as authorizing the Appeals Board to waive, set aside or in any manner change any provision or provisions of this chapter, other than as authorized in the penalty section and as to any question arising as to the determination of square footage, or any decision made by the Mayor and the City Council pursuant to this chapter.

§ 17-8. Appeals.

If any licensee or prospective licensee who is or will be liable for the payment of the Downtown Business District license fee disagrees with or is aggrieved by any determination, decision, order or notice of any kind which is made, rendered, issued or given under the provisions of this chapter, such licensee or prospective licensee, within thirty (30) days after written notice of such action or determination has been given or mailed to him or her, shall have the right to bring the matter in dispute before the Appeals Board by written request setting forth in full the reasons for said appeal.

§ 17-9. Applicability of other laws.

Any person who owns or operates a business establishment in the Downtown Business District shall be subject to all applicable provisions of all other ordinances of the City of Pocomoke City, statutes of Maryland and the laws of the federal government.

§ 17-10. Rules and regulations.

The Mayor and Council of Pocomoke City are hereby authorized and empowered to make, adopt, promulgate and amend, from time to time, such rules and regulations as the Mayor and Council deem necessary or proper to carry out and enforce the provisions of this chapter and to define or construe any of the terms or provisions of this chapter, including rules for the Appeals Board created herein. A copy of said rules and regulations, when created, shall be filed with the City

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3Editor's Note: See ~ 17-6, Penalty for late payment; interest.

Clerk of the City of Pocomoke City.

§ 17-11. Disposition of funds.

Any fees imposed under this chapter shall be used only for the purposes stated in this chapter and may not revert to the general fund of the City of Pocomoke City.

§ 17-12. Purpose; limitation of powers.

A. The purpose of the Commercial District Management Authority shall be promotion and marketing.

B. The Authority established pursuant to this chapter may not exercise the power of eminent domain; purchase, sell, construct or, as a landlord, lease office or retail space; or, except as otherwise authorized by law, otherwise engage in competition with the private sector.

§ 17-13. Licensing period.

For the purposes of the Downtown Business District specified in this chapter, the initial licensing period shall begin January 1, 1990, and shall end December 31, 1990, and subsequent licensing periods shall begin January 1 of each year thereafter, with bills due and payable thirty (30) days from the date of billing.

Exhibit A
Pocomoke City, Maryland
Commercial District Management Authority
Licensing Fee Schedule

An annual membership fee will be assessed on all businesses, professions and owners of vacant buildings in the above-described boundaries. The fee will be based on the square footage of the space occupied by that business or profession as follows, except that where a business or profession occupies two (2) or more floors, then only the first floor will be counted:

Category	Occupied Space (square feet)	Fee
1	1 to 1,000	$50.00
2	1,001 to 2,500	$75.00
3	2,501 to 4,000	$100.00
4	4,001 and above	$125.00

5	All unoccupied buildings and nonretail businesses	A flat fee of $50.00 per year

The fees will be levied on the first day of January each year.

Any business or profession starting in the described area will pay a prorated fee based on one-twelfth (1/12) of the fee due for each full month remaining in the fiscal year.

Chapter 30

EMERGENCY PREPAREDNESS

§ 30-1. Definitions.
§ 30-2. Civil emergency proclamation.
§ 30-3. Curfew.
§ 30-4. Powers and duties of Mayor
§ 30-5. Public notice
§ 30-6. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-20-1969 as Ord. No. 211 (Ch. 11 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Emergency services -- See Ch. 33.

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§ 30-1. Definitions.

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

CIVIL EMERGENCY:

A. A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three (3) or more persons acting together without authority of law.

B. Any natural disaster or man-made calamity, including flood, conflagration, cyclone, tornado, earthquake or explosion, within the corporate limits of Pocomoke City resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

CURFEW -- A prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of Pocomoke City, excepting persons officially designated to duty with reference to said civil emergency.

§ 30-2. Civil emergency proclamation[1].

When in the judgment of the Mayor or, in the Mayor's absence, a Vice President of the Council a civil emergency as defined herein is deemed to exist, he or she shall forthwith proclaim in writing the existence of the same.

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[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 30-3. Curfew.

After proclamation of a civil emergency by the Mayor or Vice President, he or she may order a general curfew applicable to such geographical areas of the city or to the city as a whole as he or she deems advisable and applicable during such hours of the day or night as he or she deems necessary in the interest of the public safety and welfare.

§ 30-4. Powers and duties of Mayor.

After proclamation of a civil emergency, the Mayor, or the Vice President, as the case may be, may also in the interest of public safety and welfare make any or all of the following orders:

A. Order the closing of all retail liquor stores.

B. Order the closing of all beer taverns.

C. Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted.

D. Order the discontinuance of the sale of beer.

E. Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

F. Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.

G. Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

H. Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms and/or ammunition.

I. Order the temporary closing of any and all streets, alleys and other public ways in Pocomoke City.

J. Issue such other orders as are imminently necessary for the protection of life and property.

§ 30-5. Public notice.

Should the Mayor or Vice President of the Council deem it necessary to invoke any or all of the provisions of § 30-1 to § 30-4, inclusive, he or she shall give notice of the same by means of a written proclamation publicly posted in City Hall and issued to news media for immediate dissemination to the public.

§ 30-6. Violations and penalties[2].

Any person violating the provisions of this chapter or an executive order issued pursuant thereto shall be guilty of a misdemeanor, punishable as provided in the general penalty provisions of § 1-183.

[2]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[3]Editor's Note: Original Art. II, Curfews, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 33

EMERGENCY SERVICES

ARTICLE I
Pocomoke City Volunteer Fire Co., Inc.

§ 33-1. Official organization designated.
§ 33-2. Equipment; annual appropriation.
§ 33-3. Fire Chief; annual report.

ARTICLE II
Pocomoke City Volunteer Ambulance Co., Inc.

§ 33-4. Official organization designated
§ 33-5. Equipment; annual appropriation.
§ 33-6. Ambulance Captain; annual report.

[**HISTORY**: **Adopted by the Mayor and Council of Pocomoke City 7-11-1994 as Res**. **No**. **248. Amendments noted where applicable**.]

GENERAL REFERENCES

Emergency preparedness -- See Ch. 30.

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§ 33-1. Official organization designated.

The Pocomoke City Volunteer Fire Company, Inc., is hereby designated the official organization to provide fire protection and related fire protection services to the inhabitants of Pocomoke City and its environs. [Amended 12-14-98 by Ord. No. 352]

§ 33-2. Equipment; annual appropriation.

In furtherance of this service the city will provide to this organization a building and land for a firehouse, equipment, vehicles, fuel and other necessities for operation, along with an annual appropriation for the services rendered.[Amended 12-14-98 by Ord. No. 352]

§ 33-3. Fire Chief; annual report.

The Mayor and Council shall confirm on an annual basis the appointment of the Fire Chief and shall receive an annual report from the Fire Chief regarding the status and operations of the fire company.
[Amended 12-14-98 by Ord. No. 352]

§ 33-4. Official organization designated.

The Pocomoke City Volunteer Ambulance Co., Inc. is hereby designated the official organization to provide emergency medical services to the inhabitants of Pocomoke City and its environs.
[Added 12-14-98 by Ord. No. 352]

§ 33-5. Equipment; annual appropriation.

In furtherance of this service the City will provide the organization with land for the establishment of a facility for its use and storage of vehicles and equipment, along with an annual appropriation for the services rendered including fuel and vehicle, equipment, and building maintenance.[Added 12-14-98 by Ord. No. 352]

§ 33-6. Ambulance Captain; annual report.

The Mayor and Council shall confirm on an annual basis the appointment of the Ambulance Captain and shall receive an annual report from the Ambulance Captain regarding the status and operations of the ambulance company.[Added 12-14-98 by Ord. No. 352]

Chapter 37
AMDENDED BY ORD. 410 SEPTEMBER 10, 2012

~~ETHICS~~

~~§ 37-1. Title.~~
~~§ 37-2. Applicability.~~
~~§ 37-3. Ethics Review Coordinator.~~
~~§ 37-4. Conflicts of interest.~~
~~§ 37-5. Financial disclosure.~~
~~§ 37-6. Violations and penalties.~~

~~**[HISTORY: Adopted by the Mayor and Council of Pocomoke City 10-21-1983 as Ord. No. 273, approved 10-21-1983 (Ch. 13A of the 1968 Code). Amendments noted where applicable.]**~~

~~GENERAL REFERENCES~~

~~**Financial dealings of Mayor and Council – See Ch. 61, Art. I.**~~

~~§ 37-1. Title.~~

~~This chapter of the Code of Pocomoke City, Maryland, shall be named the "Public Ethics Law."~~

~~§ 37-2. Applicability.~~

~~The provisions of this chapter apply to the following Pocomoke City officials and employees:~~

~~A. Mayor.~~

~~B. City Council.~~

~~C. City Manager.~~

~~D. City Clerk.~~

~~E. Assistant City Clerk.~~

~~F. Department heads.~~

~~G. Members of the Board of Zoning Appeals.~~

~~H. Members of the Planning and Zoning Commission.~~

~~I. All regular employees.~~ ~~**[Added 12-19-1983 by Ord. No. 275, approved 12-19-1983]**~~

~~§ 37-3. Ethics Review Coordinator.~~

~~There shall be a Pocomoke City Ethics Review Coordinator, who shall be appointed by the Mayor with the approval of the Council. The Ethics Review Coordinator shall have the following responsibilities:~~

~~A. To devise, receive and maintain all forms generated by this chapter.~~

~~B. To provide published advisory opinions to persons subject to the chapter as to the applicability of the provisions of this chapter to them.~~

~~C. To process and make determinations as to complaints filed by any person alleging violations of this chapter.~~

~~D. To conduct a public information program regarding the purposes and application of this chapter.~~

~~§ 37-4. Conflicts of interest.~~

~~Pocomoke City officials and employees who are subject to this chapter shall not:~~

~~A. Participate on behalf of the city in any matter which would have a direct financial impact on them, their spouses or dependent children or a business entity with which they are affiliated.~~

~~B. Hold or acquire an interest of either five thousand dollars ($5,000.) or fifty percent (50%) or greater in a business entity that has or is negotiating a contract of five thousand dollars ($5,000.) or more with the city or is regulated by their agency.~~

~~C. Be employed by a business entity that has or is negotiating a contract of more than five thousand dollars ($5,000.) with the city or is regulated by their agency.~~

~~D. Represent any party, for a contingent fee, before any city body.~~

~~E. Within one (1) year following termination of city service, act as a compensated representative of another in connection with any specific matter in which they participated substantially as a city official or employee.~~

~~F. Solicit any gift or accept gifts of greater than twenty-five dollars ($25.) in value from any person that has or is negotiating a contract with the city or is regulated by their agency, except where such gifts would not present a conflict of interest as determined by the Review Coordinator. For purposes of this section, "gift" includes the transfer of anything of economic value regardless of form without adequate and lawful consideration.~~

~~G. Use the prestige of their office for their own benefit or that of another.~~

~~H. Use confidential information acquired in their official city position for their own benefit or that of another.~~

~~§ 37-5. Financial disclosure.~~

~~A. The city officials, board members and employees and candidates for offices listed in Subsection B of this section shall file annually no later than thirty (30) days prior to the first Tuesday in April of each calendar year during which they hold office a statement with the Review Coordinator disclosing any gifts in excess of twenty-five dollars ($25.) in value, or a series of gifts totaling one hundred dollars ($100.) or more, received during the preceding calendar year from any person having a contract with the city or any person regulated by their agency. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt.~~

~~B. The following officials and employees are required to file the disclosure statement:~~

~~(1) Mayor.~~

~~(2) City Council.~~

~~(3) City Manager.~~

~~(4) City Clerk.~~

~~(5) Assistant City Clerk.~~

~~(6) Department heads.~~

~~(7) Members of the Board of Zoning Appeals.~~

~~(8) Members of the Planning and Zoning Commission.~~

~~C. Candidates for elective offices listed in Subsection B of this section shall file statements consistent with the requirements of Subsection A of this section at the time that they file their certificate of candidacy.~~

~~D. All city officials and employees subject to this section and candidates for elective office to positions subject to this section shall file a statement with the Review Coordinator disclosing any interest or employment, the holding of which would require disqualification from participation pursuant to Subsection A of this section. This statement shall be filed whenever an anticipated action of the local official or employee will present a potential conflict with his or her personal interest and then sufficiently in advance of the action to provide adequate disclosure to the public.~~

~~E. Disclosure statements filed pursuant to this section shall be maintained by the Review Coordinator as public records available for public inspection and copying.~~

~~§ 37-6. Violations and penalties.~~

~~A. The Review Coordinator may issue a cease and desist order against any person~~

~~found to be in violation of this chapter and may seek enforcement of such order in the Circuit Court of Worcester County. The Court may issue a cease and desist order and may also impose a fine of up to five hundred dollars ($500.) for any violation of the provisions of this chapter.~~

~~B. A city official or employee found to have violated this chapter may be subject to disciplinary or other appropriate personnel action, including suspension of city salary or other compensation.~~

~~C. A violation of § 37-5 of this chapter shall be a misdemeanor, subject to a fine of up to five hundred dollars ($500.) or imprisonment of up to one (1) year.~~
~~place and following:~~

CHAPTER 37 — ETHICS

Section 1. Short title.

This chapter may be cited as the Pocomoke Public Ethics Ordinance.

Section 2. Applicability.

The various provisions of this chapter apply to elected officials, employees, and appointees to boards and commissions of Pocomoke City, as indicated in the various sections.
place and following:

Section 3. Ethics Commission.

(a) There is a Pocomoke City Ethics Commission that consists of three members appointed by the Mayor with the approval of the Council.

(b) The Commission shall:

(1) Devise, receive, and maintain all forms required by this chapter;

(2) Develop procedures and policies for advisory opinion requests and provide published advisory
opinions to persons subject to this chapter regarding the applicability of the provisions of this chapter to them;

(3) Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter; and

(4) Conduct a public information program regarding the purposes and application of this chapter.

(c) The City Attorney shall advise the Commission.

(d) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the City is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, for elected local officials.

(e) The Commission shall determine if changes to this chapter are required to be in compliance

with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, and shall forward any recommended changes and amendments to the City Council for enactment.

(f) The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

Section 4. Conflicts of interest.

(a) In this section, "qualified relative" means a spouse, parent, child, or sibling.

(b) All Town elected officials, officials appointed to City boards and commissions subject to this chapter, and employees are subject to this section.

(c) Participation prohibitions. Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.

(2) Except in the execise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:
(i) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

(ii) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

(iii) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment.

(iv) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

(v) An entity, doing business with the City, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(vi) A business entity that:

(A) The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

(B) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(3) A person who is disqualified from participating under paragraphs (1) or (2) of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

(i) The disqualification leaves a body with less than a quorum capable of acting; (ii) The disqualified official or employee is required by law to act; or
(iii) The disqualified official or employee is the only person authorized to act.

(4) The prohibitions of paragraph 1 and 2 of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

(d) Employment and financial interest restrictions.

(1) Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(i) Be employed by or have a financial interest in any entity:

(A) Subject to the authority of the official or employee or the City agency, board, commission with
which the official or employee is affiliated; or

(B) That is negotiating or has entered a contract with the agency, board, or commission with which
the official or employee is affiliated; or

(ii) Hold any other employment relationship that would impair the impartiality or independence of
judgment of the official or employee.

(2) This prohibition does not apply to:

(i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(ii) Subject to other provisions of law, a member of a board or commission in regard to a financial
interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

(iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Commission; or

(iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(e) Post-employment limitations and restrictions.

(1) A former official or employee may not assist or represent any party other than the City for

compensation in a case, contract, or other specific matter involving the City if that matter is one in which the former official or employee significantly participated as an official or employee.

(2) Until the conclusion of the next regular session that begins after the elected official leaves office, a former member of the City Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.

(f) Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the City.
(g) Use of prestige of office.
(1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

(2) This subsection does not prohibit the performance of usual and customary constituent services
by an elected local official without additional compensation.

(h) Solicitation and acceptance of gifts.

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(i) Is doing business with or seeking to do business with the City office, agency, board, or commission with which the official or employee is affiliated;

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee. (4) Paragraph (5) of this subsection does not apply to a gift:
(i) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

(ii) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

(iii) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(5) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:

(i) Meals and beverages consumed in the presence of the donor or sponsoring entity;
(ii) Ceremonial gifts or awards that have insignificant monetary value;

(iii) Unsolicited gifts of nominal value that do not exceed $20 in cost or trivial items of informational value;

(iv) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

(v) Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

(vi) A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the City and that the gift is purely personal and private in nature;

(vii) Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or

(viii) Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is in not related in any way to the official's or employee's official position.

(i) Disclosure of confidential information. Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(j) Participation in procurement.

(1) An individual or a person that employs an individual who assists a City agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

(2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

Section 5. Financial disclosure — local elected officials and candidates to be local elected officials.

(a) (1) This section applies to all local elected officials and candidates to be local elected Officials.

(2) Except as provided in subsection (b) of this section, a local elected official or a candidate to
be a local elected official shall file the financial disclosure statement required under this section: (i) On a form provided by the Commission;

(ii) Under oath or affirmation; and

(iii) With the Commission.

(3) Deadlines for filing statements.

(i) An incumbent local elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.

(ii) An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.

(iii) (A) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office.

(B) The statement shall cover:

1. The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

(2). The portion of the current calendar year during which the individual held the office. (b) Candidates to be local elected officials.
(1) Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected local official shall file under a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.

(2) A candidate to be an elected local official shall file a statement required under this section:

(i) In the year the certificate of candidacy is filed, no later than the filing of the certificate Of candidacy;

(ii) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

(iii) In all other years for which a statement is required, on or before April 30.

(3) A candidate to be an elected official:

(i) May file the statement required under §5(b)(2)(i) of this chapter with the City Clerk or Board of Election Supervisors with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and

(ii) Shall file the statements required under §5(b)(2)(ii) and (iii) with the Commission.

(4) If a candidate fails to file a statement required by this section after written notice is provided by the City Clerk or Board of Election Supervisors at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.

(5) The City Clerk or Board of Election Supervisors may not accept any certificate of candidacy unless a statement has been filed in proper form.

(6) Within 30 days of the receipt of a statement required under this section, the City Clerk or Board of Election Supervisors shall forward the statement to the Commission or the office designated by the Commission.

(c) Public record.

(1) The Commission or office designated by the Commission shall maintain all financial disclosure statements filed under this section.

(2) Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.

(3) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:

(i) The name and home address of the individual reviewing or copying the statement; and

(ii) The name of the person whose financial disclosure statement was examined or copied.

(4) Upon request by the official or employee whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.

(d) Retention requirements. The Commission or the office designated by the Commission shall retain financial disclosure statements for four years from the date of receipt.

(e) Contents of statement.

(1) Interests in real property.

(i) A statement filed under this section shall include a schedule of all interests in real property wherever located.

(ii) For each interest in real property, the schedule shall include:

(A) The nature of the property and the location by street address, mailing address, or legal description of the property;

(B) The nature and extent of the interest held, including any conditions and encumbrances on the interest;

(C) The date when, the manner in which, and the identity of the person from whom the interest was acquired;

(D) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

(E) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

(F) The identity of any other person with an interest in the property. (2) Interests in corporations and partnerships.

(i) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the City.

(ii) For each interest reported under this paragraph, the schedule shall include:

(A) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

(B) The nature and amount of the interest held, including any conditions and encumbrances on the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and 2. The nature and the amount of the consideration given in exchange for the interest or, if
acquired other than by purchase, the fair market value of the interest at the time acquired.

(iii) An individual may satisfy the requirement to report the amount of the interest held under Item (B)(ii) of this paragraph by reporting, instead of a dollar amount:

(A) For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or

(B) For an equity interest in a partnership, the percentage of equity interest held. (3) Interests in business entities doing business with City.

(i) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the City, other than interests reported under paragraph (2) of this subsection.

(ii) For each interest reported under this paragraph, the schedule shall include: (A) The name and address of the principal office of the business entity; (B) The nature and amount of the interest held, including any conditions to and encumbrances in the interest;

(C) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and

(D) With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) Gifts.

(i) A statement filed under this section shall include a schedule of each gift in excess of $20 in value or a series of gifts totaling $100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the City.

(ii) For each gift reported, the schedule shall include:
(A) A description of the nature and value of the gift; and
(B) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) Employment with or interests in entities doing business with City.

(i) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the City.

(ii) For each position reported under this paragraph, the schedule shall include: (A) The name and address of the principal office of the business entity;
(B) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

(C) The name of each City agency with which the entity is involved. (6) Indebtedness to entities doing business with City.
(i) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the City owed at any time during the reporting period:

(A) By the individual; or

(B) By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(ii) For each liability reported under this paragraph, the schedule shall include:

(A) The identity of the person to whom the liability was owed and the date the liability was incurred;

(B) The amount of the liability owed as of the end of the reporting period;

(C) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

(D) The security given, if any, for the liability.

(7) A statement filed under this section shall include a schedule of the immediate family members
of the individual employed by the City in any capacity at any time during the reporting period.
(8) Sources of earned income.

(i) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(ii) A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

(9) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(f) For the purposes of §5(e)(1), (2), and (3) of this chapter, the following interests are considered to be the interests of the individual making the statement:

(1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.

(2) An interest held by a business entity in which the individual held a 30% or greater interest at any time during the reporting period.

(3) An interest held by a trust or an estate in which, at any time during the reporting period: (i) The individual held a reversionary interest or was a beneficiary; or
(ii) If a revocable trust, the individual was a settlor.

(g) (1) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

(2) The City Ethics Commission may take appropriate enforcement action to ensure compliance with this section.

Section 6. Financial disclosure — employees and appointed officials.

(a) This section only applies to the following appointed officials and employees:
(1) City Manager
(2) City Clerk
(3) Assistant City Clerk

(4) Department heads

(5) Members of the Board of Zoning Appeals

(6) Members of the Planning and Zoning Commission

(7) Members of the City Fair Board

(8) Members of the Housing Authority

(9) Members of the Board of Housing Review

(10) Members of the Board of Election Supervisors
(b) A statement filed under this section shall be filed with the Commission under oath or affirmation.

(c) On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by City, including the name of the donor of the gift and the approximate retail value at the time or receipt.

(d) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

(e) The Commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in §5(c) and (d) of this chapter.

Section 7. (RESERVED)

Section 8. Exemptions and modifications.

The Commission may grant exemptions and modifications to the provisions of §§4 and 6 of this chapter to employees and to appointed members of Pocomoke City Boards and Commissions, when the
Commission finds that an exemption or modification would not be contrary to the purposes of this
chapter, and the application of this chapter would:

(a) Constitute an unreasonable invasion of privacy; and

(b) Significantly reduce the availability of qualified persons for public service.

Section 9. Enforcement.

(a) The Commission may:

(1) Assess a late fee of $2 per day up to a maximum of $250 for a failure to timely file a Financial disclosure statement required under §5 or 6 of this chapter;

(2) Issue a cease and desist order against any person found to be in violation of this chapter.

(b) (1) Upon a finding of a violation of any provision of this chapter, the Commission may:

(i) Issue an order of compliance directing the respondent to cease and

desist from the violation;

(ii) Issue a reprimand; or

(iii) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

(c) (1) Upon request of by the Commission, the City Attorney may file a petition for injunctive or other relief in the Circuit Court of Worcester County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this chapter.

(2) (i) The court may:

(A) Issue an order to cease and desist from the violation;

(B) Except as provided in subparagraph (ii) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this chapter when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

(C) Impose a fine of up to $5,000 for any violation of the provisions of this chapter, with each day upon which the violation occurs constituting a separate offense.

(ii) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

(d) In addition to any other enforcement provisions in this chapter, a person who the Commission or a court finds has violated this chapter:

(1) Is subject to termination or other disciplinary action; and

(2) May be suspended from receiving payment of salary or other compensation pending full compliance
with the terms of an order of the Commission or a court.

(e) A City official or employee found to have violated this chapter is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action,suspension of salary, or other sanction.

(f) A finding of a violation of this chapter by the Commission is public information.

Chapter 41

FAIR BOARD

§ 41-1. Establishment; powers and duties.
§ 41-2. Assistance; ex officio member.
§ 41-3. Membership; appointment.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 10-3-1994 as Res. No. 250. Amendments noted where applicable.]

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§ 41-1. Establishment; powers and duties.

The Pocomoke City Fair Board is hereby established and shall remain in existence until terminated by the Mayor and Council. The Pocomoke City Fair Board shall advise the Mayor and Council on policies and procedures for the operation of the Pocomoke City Fair and Fairgrounds as located and established hereby at the intersection of Broad Street and Second Street in Pocomoke City, Maryland.

§ 41-2. Assistance; ex officio member[1].

In furtherance of this appointment the city will provide to said Board such assistance as the Mayor and Council shall deem appropriate from time to time and shall appoint one (1) member of the Council of Pocomoke City to serve as an ex officio member of said Fair Board.

§ 41-3. Membership; appointment[2].

Each Council member shall recommend at least one (1) member for appointment, and the Mayor may appoint five (5) or more members to the Fair Board, subject to the approval of a majority of the members of the City Council.

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[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[2] Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 46

HOUSING AUTHORITY

§ 46-1. Findings. **§ 46-2. Establishment; name.**

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-3-1971 as Res. No. 40. Amendments noted where applicable.]

GENERAL REFERENCES

Housing standards -- See Ch. 146.

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§ 46-1. Findings.

A. It is hereby found and determined that unsanitary and unsafe inhabited dwelling accommodations exist in Pocomoke City, Maryland.

B. It is hereby found and determined that there is a shortage of safe and sanitary dwelling accommodations in Pocomoke City, Maryland, available to families of low income at rentals they can afford.

§ 46-2. Establishment; name.

A. Pursuant to the Housing Authorities Law, as amended[1], it is hereby found and declared that there is need for a Housing Authority to function in Pocomoke City, Maryland.

B. The name of said Housing Authority shall be "Pocomoke City Housing Authority."

1Editor's Note: See Article 44A of the Annotated Code of Maryland.

Chapter 50

INSURANCE

§ 50-1. Elected officials.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 5-2-1983 as Res. No. 134. Amendments noted where applicable.]

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§50-1. Elected officials.

Any city official elected on or after January 1, 1981, may participate in the Health Insurance Program of Pocomoke City under terms of the group policy coverage.

1Editor's Note: Additional personnel policies are on file in the City Clerk's office.

Chapter 61

MAYOR AND COUNCIL

ARTICLE I
Financial Dealings

§ 61-1. Claims against city.
§ 61-2. Violations and penalties.

ARTICLE II
Salaries and Compensation

§ 61-3. Schedule of annual salaries.
§ 61-4. Payment procedures.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City: Art. I, 8-26-1968 as Ch. 24, Art. I of the 1968 Code; Art. II, 8-26-1968 as Ch. 24, Art. II of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Ethics -- See Ch. 37.

ARTICLE I
Financial Dealings
[Adopted 8-26-1968 as Ch. 24, Art. I of the 1968 Code]

§ 61-1. Claims against city.

It shall not be lawful for the Mayor or any member of the City Council of Pocomoke City, during his or her term of office, to accept, hold, purchase or acquire any claim on or against the city or the corporate body known as the "Mayor and Council of Pocomoke City, Maryland," or any share or interest in such claim, which said claim has been or is to be passed upon and approved by the City Council of Pocomoke City.

§ 61-2. Violations and penalties.

If the Mayor or any member of the City Council of Pocomoke City shall violate any of the provisions of this Article, he or she shall be liable to indictment and, upon conviction, shall be fined not less than one hundred dollars ($100.) nor more than five hundred dollars ($500.) and the costs of prosecution and, in default of the payment of such fine and costs, shall be committed to the city or county jail for thirty (30) days.

ARTICLE II
Salaries and Compensation
[**Adopted 8-26-1968 as Ch. 24, Art. II of the 1968 Code**]

§61-3. Schedule of annual salaries. [**Amended March 2, 1998 by Ord. No. 350, approved 3-2-1998**] **[Amended 03-19-2007 by Ord. No. 391].**

A. ~~The officials designated herein shall receive the annual salaries indicated hereafter:~~

The annual salary of the Mayor shall be $7,500.
The annual salary of the each Council member shall be $6,000 [Amended 03-19-2007 by Ord. No. 391].

Title	**Salary**
Mayor	~~$2,500.00~~
	$7,500.00
Each Council	~~$2,000.00~~
Member	$6,000.00

B. ~~The salary of the Mayor shall become effective on the second Tuesday in April, 2000. The salary of each Council member shall become effective on the second Tuesday in April, 2000~~.

The salary of the Mayor shall become effective on the second Tuesday in April, 2008. The salary of each Council member shall become effective as follows: District 1 and District 2 on the second Tuesday of April, 2007, Destrict 3 on the second Tuesday of April 2008; and District 4 and District 5 on the second Tuesday of April 2009. [Amended 03-19-2007 by Ord. No. 391].

§61-4. Payment procedures.

All salaries shall be paid in equal semimonthly installments unless provision is made to the contrary by the Council. The City Clerk shall prepare a payroll list semimonthly which, when signed by the Mayor and the City Clerk, shall authorize the issuance of checks for the salaries indicated to be due. Deductions as provided by law shall be made wherever applicable.

Chapter 67

PLANNING AND ZONING COMMISSION

§ 67-1. Statutory authority;
§ 67-2. Powers and duties.
§ 67-3. Membership; appointment; salaries and compensation establishment.
§ 67-4. Terms of office.
§ 67-5. Removal of members; vacancies.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 10-21-1974 as Ord. No. 237. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land -- See Ch. 205. **Zoning -- See Ch. 230.**

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§ 67-1. Statutory authority; establishment.

Pursuant to the authority contained in § 3.01 of Article 66B of the Annotated Code of Maryland, 1957 Edition, as amended, there is hereby created in and for Pocomoke City a Municipal Planning and Zoning Commission to be designated as the "Pocomoke City Planning and Zoning Commission," hereinafter called the "Commission."

§ 67-2. Powers and duties.

Said Commission shall have all of the powers, duties and obligations provided by § 3.05 of said Article 66B of the Annotated Code of Maryland, 1957 Edition, as amended.

§67-3. Membership; appointment; salaries and compensation.

A. The Commission shall consist of five (5) members who shall be appointed by the Mayor of Pocomoke City and confirmed by the City Council of Pocomoke City. One (1) member of the Pocomoke City Council shall be appointed to serve with the Commission as a nonvoting liaison member**. [Amended 5-20-1991 by Ord. No. 314]**

B. All members of the Commission shall serve as such without compensation.

§ 67-4. Terms of office.

A. The term of the liaison member shall correspond to his official tenure of office. **[Amended 5-20-1991 by Ord. No. 314]**

B. The term of each member shall be five (5) years or until his or her successor takes

office, except that the respective terms of the five (5) members first appointed shall be one (1), two (2), three (3), four (4) and five (5) years, and the Mayor shall make all such appointments, subject to the confirmation by the Council, and shall designate the respective terms for each member to serve.

§ 67-5. Removal of members; vacancies.

A. Members may, after a public hearing, be removed by the Council for inefficiency, neglect of duty or malfeasance in office. In the case of any such removal, the Council shall file a written statement of the reasons therefor.

B. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor and confirmed by the Council.

Chapter 86

ALCOHOLIC BEVERAGES

§ 86-1. Definitions.
§ 86-2. Possession in open containers in public.
§ 86-3. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 6-9-1986 as Ord. No. 287, approved 6-17-1986 (Ch. 2 of the 1968 Code). Amendments noted where applicable.]

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§ 86-1. Definitions.

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

ALCOHOLIC BEVERAGES -- All beverages requiring licenses for sale, including, by way of example, beverages such as beer, wine, ale, liquors and liqueurs, in their original containers, and all mixtures of such beverages in other containers, such as in mixed drinks or highballs containing at least five-percent alcohol content by volume.

OPEN CONTAINER -- Includes all containers which, in the original form sold, contain less than one (1) liter. It shall also include any larger container without a tightly affixed cap or cork capable of preventing leakage. It shall also include all glasses, cups or other types of containers made without cap or top or with a cap or top through which a straw may be inserted.

POSSESSION -- Having the alcoholic beverage in hand, within arm's length or within the same vehicle.

§ 86-2. Possession in open containers in public.

It shall be unlawful for any person to possess in an open container any alcoholic beverage on a public street, highway, alley, sidewalk, dock, park or public parking lot within the City of Pocomoke City, Maryland, except where special permission may be granted by the Mayor and City Council.

§ 86-3. Violations and penalties. [Amended 10-20-1986 by Ord. No. 2819]

Any violation of this chapter shall constitute a municipal infraction, and any person who violates this section shall, upon conviction thereof, be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[2].

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

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 89

ANIMALS

ARTICLE I
Dog Control

§ 89-1. Definations.
§ 89-2. Running at large; nuisances.
§ 89-3. Registration.
§ 89-4. Tag and collar.
§ 89-5. Complaints.
§ 89-6. Effect on county and state laws.

ARTICLE II
Fowl and Other Aminals

§ 89-7. Pigeons.
§ 89-8. Fowl.
§ 89-9. Livestock.

ARTICLE III
Enforcement

§ 89-10. Violations and penalties.
§ 89-11. Animal Control Officer.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 7-9-1973 as Ord. No. 230 (Ch. 3 of the 1968 Code). Amendments noted where applicable.]

ARTICLE I
Dog Control
[Amended 2-18-1985 by Ord. No. 280, approved 2-19-1985]

§ 89-1. Definitions.

For the purpose of this Article, the terms used herein are defined as follows:

ANIMAL CONTROL AUTHORITY -- Any officer or agency, public or private, designated by the County Commissioners of Worcester County and/or the Mayor and Council of Pocomoke City as having the responsibility for the administration of any or all provisions of this Article.

AT LARGE -- A dog shall be deemed to be "at large" if off the premises of its owner and not under the immediate control of a person. No dog running "at large" by accident, with a person in pursuit thereof, shall be deemed as running "at large" within this definition.

OWNER -- Any person having a right of property in a dog or any person who keeps or harbors a dog or has it in his or her care or permits it to remain on or about the premises occupied by or controlled by him or her.

PUBLIC NUISANCE -- That action or combination of actions which serves to disturb, annoy, endanger or offend the public in general and is unreasonable, unwarranted or unlawful and which interferes with the enjoyment of life and property. For the purpose of this Article, by way of explanation, without limitation, the following types of actions may constitute a "public nuisance":

A. The chasing of automobiles, other motor vehicles, mopeds, bicycles or

persons.

B. The destruction of flora or fauna, be it flower beds, livestock or other.

C. Running in packs.

D. Barking excessively.

E. Biting, clawing or otherwise injuring persons.

F. Any other type of activity which is found to be dangerous, annoying or disturbing to persons or property.

§ 89-2. Running at large; nuisances.

No owner of a dog, whether such dog is licensed or unlicensed, shall permit such dog to run at large off the premises of the owner in the City of Pocomoke City, except when it is under the control of the owner or an authorized agent of the owner, nor shall such owner allow a dog to engage in the actions which constitute a public nuisance, as herein defined.

§ 89-3. Registration.

All dogs which are kept, harbored or maintained by their owners in the City of Pocomoke City shall be registered in accordance with the Worcester County Dog Ordinance if over four (4) months of age. Such registration is required for the purpose of this Article to identify the dogs so kept, harbored or maintained in the city, and said registration is required under this Article regardless of whether or not such registration would be required under the provisions of the Worcester County Dog Ordinance. The provisions of this section shall not be intended to apply to dogs whose owners are visiting temporarily within the city or to dogs brought into the city for the purpose of participating in any dog show or to Seeing Eye dogs which are properly trained to assist blind persons, when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

§ 89-4. Tag and collar.

When the dog is registered in accordance with the provisions of §89-3, every owner shall be required to provide his or her dog or dogs with a collar to which the registration tag shall be affixed, and said owner shall have the responsibility to see to it that the collar and tag are constantly worn.

§ 89-5. Complaints.

Any person desiring to make a complaint by virtue of any violation of the terms of this Article shall notify the Animal Control Authority of said complaint, and the person making said complaint shall be provided with the proper form by the Animal Control Authority in order to make the complaint in writing[1].

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[1] Editor's Note: Original ~ 3-6, Violations and penalties, which immediately followed this section, was deleted at

§ 89-6. Effect on county and state laws.

The Mayor and Council of the City of Pocomoke City hereby state that this Article shall be construed in addition to and not in lieu of any other ordinance, statute or regulation in Worcester County or the State of Maryland regarding the obligations of the dog owners in said jurisdictions.

ARTICLE II
Fowl and Other Animals

§ 89-7. Pigeons.

No person, firm or corporation shall keep, maintain, house, harbor or possess any pigeons within the city.

§ 89-8. Fowl. [Added 2-6-1989 by Ord. No. 2929] Amended May 4, 2015 by Ord. No. 419

~~No person, firm or corporation shall keep, maintain, house, harbor or possess any chickens, ducks, geese, turkeys or other fowl, except for exotic songbirds or parrots kept as house pets, within the city, except for those which are in vehicles being transited through the city or where otherwise permitted by Chapter 230, Zoning, or upon special permission of the Mayor and Council where it is determined that the keeping, maintaining, housing, harboring or possessing will not create a nuisance in the neighborhood. This section shall not apply to such fowl being transported to or from the Pocomoke City Fairgrounds or kept thereon for purposes of exhibition~~.

1. Amending Section 89-8 to read as follows:

A. No person, firm or corporation shall keep, maintain, house, harbor or possess any chickens, ducks, geese, turkeys or other fowl, except for exotic songbird or parrots kept as house pets, within the city, except for those which are in vehicles being transited through the city or where otherwise permitted by Chapter 230, Zoning, or upon approval of a permit for chickens pursuant to Subsection B hereof. This section shall not apply to such fowl being transported to or from the Pocomoke City Fairgrounds or kept thereon for purposes of exhibition.

B. The City Manager or designee is authorized to issue a permit to keep, maintain, house, harbor or possess chickens where it is determined that doing so will not create a nuisance, subject to the following regulations and conditions:

1) Number. No more than six (6) hens shall be allowed for each dwelling unit.

2) Setbacks. Coops or cages housing chickens shall be kept at least twenty-five (25) feet from the door or window of any dwelling or occupied structure other than the owner's dwelling. Coops and cages shall not be located within fifteen (15) feet of a side-yard or rear-yard lot line. Coops and cages shall be located in the rear yard only and shall not be placed in the front or side yard.

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time of adoption of Code; see Ch. 1, General Provisions, Art. I. For current penalty provisions see ~ 89-10.

[2]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

3) Enclosure. Hens shall be provided with a covered, predator-proof coop or cage that is well-ventilated and designed to be easily accessed for cleaning. The coop shall allow at least three (3) square feet per hen. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property and to prevent predators from access to the birds. The outdoor enclosure shall not be located within fifteen (15) feet of a side yard or rear yard lot line. The outdoor enclosure shall allow at least seven (7) square feet per hen. Hens shall not be allowed out of these enclosures unless a responsible individual, over 18 years of age, is directly monitoring the hens and able to immediately return the hens to the cage or coop if necessary.

4) Sanitation. The coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors. The coop and outdoor enclosure must be cleaned on a regular basis to prevent the accumulation of waste.

5) Slaughtering. There shall be no slaughtering of chickens.

6) Roosters. It is unlawful for any person to keep roosters.

7) The owner shall abide by all state laws and regulations for livestock or fowl premises registration and any applicable amendments thereto.

8) The applicant shall also follow state laws and regulations regarding import, purchase and sales of live poultry

9) There shall be no breeding or hatching of chickens.

10) Any poultry feed shall be stored so as to keep out rodents. The owner shall practice proper poultry waste disposal in order to avoid odors. Waste composting on the premises shall be allowed as long as it does not create odors or other nuisances for neighboring properties.

11) The main food source for the chickens should be provided in dedicated feeding containers and scatter feeding as the primary food source is prohibited (small amounts of scratch grains that do not accumulate on the property are allowable).

12) Permit. A permit shall be required.

a. Application. A permit shall be required to keep chickens in the city. An application for a permit must contain the following items:

i. The name, phone number, and address of the applicant.
ii. The location of the subject property.
iii. A description of any coops, cages or outdoor enclosures, providing dimensions and the precise location (if fixed) of these enclosures in relation to property lines and adjacent properties.
iv. If applicant proposes to use a mobile coup and/or a chicken run, the dimensions of the structure(s) shall be provided and the area of requested allowed placement areas shall be provided.

b. Application Fee. The application fee charge for the permit shall be $10.00. There shall be no charge for renewal of the permit.

c. Owner Consent Required. If the applicant proposes to keep chickens in the yard of a rented dwelling, the applicant must present a signed statement from the owner of the dwelling

consenting to the applicant's proposal for keeping chickens on the premises.

d. Single-family Only. Chickens may only be kept on single-family unit lots in an R-1 or R-2 zoning classification only. Chickens may not be kept on two-family or multiple-family lots or in an
R-3 zoning classification.

e. Upon receipt of an application and prior to issuance of a permit, adjacent property owners shall be advised in writing of the requested permit and shall be afforded at least fourteen (14) days in which to submit written objections. If such objections are received, the application shall be referred to the Board of Zoning Appeals for a public hearing, subject to the normal policies, procedures and fees of the Board of Zoning Appeals. If no objections are received,
a permit shall be issued within fourteen (14) days.

f. Permit Renewal. Permits will be granted on an annual basis (unless this Chicken Ordinance is repealed). If the permittee follows the terms of the ordinance, the permit will be presumptively renewed (unless this Chicken Ordinance is repealed) and the applicant may continue to keep chickens under the terms and conditions of the initial permit. The City Manager or the designee of the City Manager may refuse to renew or may revoke the permit at any time, (after giving the permittee fourteen (14) days notice of the basis for the revocation or nonrenewal and an opportunity to be heard on the issue) if the permittee does not follow the terms of this ordinance, or if the City Manager of designee finds that the permit holder has not maintained the chickens, coops, or outdoor enclosures in a clean and sanitary condition or otherwise is in violation of this Section
or as a result of complaints from adjacent property owners.

g. If title to the property is transferred or, in the case of rented property, if a new tenant takes occupancy of the property, the permit shall expire and the new owner or occupant shall be required to submit a new permit application within fourteen (14) days if he or she wishes to continue to keep, maintain, house, harbor or possess chickens.

C. If this Ordinance is amended or repealed, no party shall have the right to keep chickens based on a nonconforming use status obtained under this ordinance.

§ 89-9. Livestock. [Added 2-6-1989 by Ord. No. 2939]

No person, firm or corporation shall keep, maintain, house, harbor or possess any hogs, cattle, horses, sheep, goats or other livestock within the city, except for those which are in vehicles being transited through the city or where otherwise permitted by Chapter 230, Zoning, or upon special permission by the Mayor and Council where it is determined that the keeping, maintaining, housing, harboring or possessing will not create a nuisance in the neighborhood. This section shall not apply to such livestock being transported to or from the Pocomoke City Fairgrounds or kept thereon for purposes of exhibition, training or racing.

[3] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE III
Enforcement

§ 89-10. Violations and penalties[4].

Any violation of this chapter shall constitute a municipal infraction, subject to fines as provided in the City Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[5]. Citations and proceedings involving municipal infractions shall be governed by Article 23A, § 3(b), of the Annotated Code of Maryland, 1957, and all amendments thereto.

§ 89-11. Animal Control Officer[6].

The City Council may appoint an Animal Control Officer for the city and establish a salary therefor.

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[4]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[5]Editor's Note: The current Fees, Charges and Rates Schedule in on file in the City Clerk's office.

[6]Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 95

BOATS AND BOATING

§ 95-1. Use of public dock or public property.

§ 95-2. Right of entry; removal and storage.

§ 95-3. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-26-1968 as Ch. 38 of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation areas -- See Ch. 173.

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§ 95-1. Use of public dock or public property.

No person, firm or corporation shall moor a boat to the public dock or beach it upon public property within the city for more than twenty-four (24) hours without the express written permission of the City Manager.

§ 95-2. Right of entry; removal and storage[1].

The Chief of Police or his designee shall have the authority to board any boat moored or beached in violation of this chapter and to move or cause it to be moved to another location, and the City Manager shall have the right to hold such boat for the payment of costs incurred in its removal or storage.

§ 95-3. Violations and penalties[2].

Violation of the provisions of this chapter shall be a municipal infraction and shall be punishable by a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[3]. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

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[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[2] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[3] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

THE CITY OF POCOMOKE ORDAINS THAT:

ADOPTED BY ORDINANCE NO. 414

MARCH 4, 2013

SECTION 1. Purpose

The purpose of this Ordinance is to preserve and promote the health, safety, and general welfare of residents, motorists and pedestrians alike through the regulation of growth of noxious weeds, rank vegetation, and grasses within the City which are deemed to detract from the appearance and character of the neighborhoods, negatively affect the value and marketability of surrounding property, constitute traffic hazards and fire hazards, and cause additional health problems for persons with respiratory ailments.

SECTION 2. Definitions

A. Noxious Weeds

For the purposes of this Ordinance, "noxious weeds" or "weeds" shall be defined as uncontrolled plant or growth over eight (8) inches in height which is out of character with the development of and landscaping in the neighborhood and contrary to the public health, safety or welfare thereof and shall include, but not be limited to, the following:

1. Vegetation, trees or woody growth on private or governmental property which is abandoned, neglected, disregarded or not cut, mowed or otherwise removed and which have attained a height of eight (8) inches or more;
2. Vegetation, trees or woody growth on private or governmental property which due to its proximity to any governmental property, right-of.way or easement, interferes with public safety or lawful use of the government property, right-of-way or easement;
3. Such weeds as may listed from time to time on any list of noxious or invasive weeds prepared or published by the Maryland Department of Agriculture;

B. Eradicate

To get rid of, to wipe out, to destroy entirely, working of natural processes or methodical plan.

C. Rank Vegetation

Profuse or unmanageable communities of plants in a region.

D. Grass

Any plant of the family Gramineae (or Poaceae) characterized by jointed stems, sheathing leaves, flower spikelets, and fruit consisting of a seed like grain or caryopsis.

E. Nature Area

A tract of real property on which the owner has been granted, by the Zoning Board of Appeals, an exemption from the vegetation growth limits.

SECTION 3. Growth of Grasses and Weeds Prohibited

A. Public Nusiance Declared

The presence of such noxious weeds, rank vegetation or tall grass upon improved and/or unimproved properties is hereby deemed to be detrimental to the public health, safety, and welfare and shall constitute a public nuisance.

B. Prohibition of Rank Vegetation and Noxious Weeds

No person owning any property, whether or not occupied, and no person occupying any property (pursuant to any land contract, rental or leasehold agreement), shall permit or maintain on any such property any growth of weeds, grasses or rank vegetation to a height greater than eight inches (8”) or permit or maintain any accumulation of noxious weeds as defined in this Ordinance or other poisonous plants, or plants detrimental to health, to grow on any improved property.

C. Exception for Designated Nature Area

Any person, firm or corporation possessing lands within the City of Pocomoke may maintain an area of natural plant growth on which plants not otherwise defined herein as noxious weeds may exceed the designated growth limitations if they first obtain a Natural Area Permit from the Board of Zoning Appeals. Application for such permit shall be submitted to the Superintendent of Public Works and be accompanied by a plot plan for the parcel or parcels which the application affects, drawn to scale not less than twenty (20) feet to the inch, showing the proposed nature area, buildings, and adjacent alleys, streets or highways. The Superintendent of Public Works shall send notice of the application, along with a copy of the same and its accompanying plot plan and a description of the time and place of the Board of Zoning Appeals, to the owner or occupants of all parcels adjacent to the proposed nature area, by certified mail, no less than ten days before the Board of Zoning Appeals will consider the application. Charges for plan review and postage shall be charged to the applicant at a rate equal to the actual cost to the City, plus ten percent (10%). No action shall be taken on the application until all fees and expenses have been paid in full.

SECTION 4. Duty of the Occupant or Owner

It shall be the duty of the occupant or owner of every premise or property within the City, whether improved or unimproved, to remove or destroy by lawful means all noxious weeds, poisonous or harmful vegetation and to cut all grass or rank vegetation, as often as may be necessary to comply with the provisions of this Ordinance between April 15th and November 15th of each year.

D. Notification

A published notice of the provisions of the Grass and Noxious Weed Ordinance shall be provided by advertising the following notice or a substantially similar notice in a paper of general circulation within the City during the month of March.

PUBLIC NOTICE

To all property owners, agents and occupants: Notice is hereby given to all persons owning or occupying any property within the City of Pocomoke that pursuant to Chapter 98 of the City of Pocomoke, it shall be the duty of such owners or occupants to remove or destroy all noxious weeds, poisonous or harmful vegetation and to keep all grasses cut below a height of eight inches (8”) between April 15th and November 15th unless such property has been designated a Natural Area by the Board of Zoning Appeals. If the provisions of this Ordinance are not complied with, the City shall cause such grass and weeds to be cut or destroyed and the actual costs of such cutting or destruction plus twenty-five percent (25%) for inspection and/or other additional costs in connection therewith shall be charged to the property owner, and if necessary collected as a tax lien as provided by law against the property.

E. Action Authorized

If the provisions of this Ordinance are not complied with after the legal notices have been published, then any officer, inspector or other agent authorized by the City of Pocomoke after April 15th, may enter upon such properties as many times as necessary and cause such grass, weeds, and other vegetation to be cut and/or destroyed, and all expenses incurred in such destruction shall be paid by the owner or owners of such properties. The City shall have liens upon such lands for such expenses, and such liens may be enforced in the manner prescribed by the general laws of the State providing for tax liens.

F. Means to be Utilized

In the discretion of the officer, inspectors or other agent authorized by the City of Pocomoke, hand or mechanical means may be used, and all due care shall be taken to avoid unnecessary damages to the property.

G. Owner Liability

1. Lien Upon Property. From the time of commencement of the cutting or destruction of such grasses, rank vegetation or noxious weeds, the City shall have a lien upon the property.
2. Costs: The owners of the property shall be liable for all costs incurred by the City in connection with the cutting and destruction. A minimum cost is to be determined by the Pocomoke City Council by resolution from time to time for cutting and destruction of such grasses, rank vegetation and noxious weeds. In addition, an administrative fee in the amount of twenty-five percent (25%) of the actual cost of the cutting or destruction will be included in the total costs.

H. Collection of Costs

1. Billing: For purposes of determining the ownership of the property, it shall be presumed in evidence that the person to whom the property is assessed on the City's most recent tax roll is the owner of the property. Billing of costs will be mailed to the owners of the property by regular mail to the address shown on the City tax roll. In the event the charges involved are not paid by the owner within thirty (3) days from the date of billing, payment shall be deemed delinquent.
2. Delinquent Charges/Tax Lien: In the event of delinquent charges, the City shall have a lien upon such property for such charges and lien enforceable as a tax lien in the manner prescribed by the general laws of the State against the property, and collected as in the case of general property tax.

Section 5. Severability

This ordinance is deemed severable and if any part shall be declared invalid by any court, such judgment or decree shall affect only that part directly involved in the controversy.

Section 6. Penalty

Any person or persons violating any provision of this Ordinance shall be guilty of a misdemeanor punishable by fine of up to One Hundred Dollars ($100.00) or imprisonment for up to ninety (90) days, or both. Enforcement of this Ordinance is authorized by an enforcement officer duly appointed by the City of Pocomoke. Each violation of this Ordinance shall be deemed a separate offense for the purpose of this Section.

Section 7. Repeal of Previous Ordinances

This Ordinance shall replace Chapter 98 of the existing Pocomoke City Code.

Chapter 101

BUILDING CONSTRUCTION

ARTICLE I
Building Permits

§ 101-1. Permit required.
§ 101-2. Application procedure; expirations; fees; exceptions.
§ 101-3. Construction without permit prohibited.
§ 101-4. False statements in application.
§ 101-5. Alterations and extensions.
§ 101-6. Inspections.
§ 101-7. Abatement of nuisance.
§ 101-8. Violations and penalties.

ARTICLE II
Multifamily and Commercial Structures

§ 101-9. Multifamily structures; violations and penalties.
§ 101-10. Commercial structures; violations and penalties.

ARTICLE III
Single-Family Structures

§ 101-11. Construction standards; violations and penalties.

ARTICLE IV
Public Safety Emergency Radio Coverage

§ 101-12. Adoption of County Regulations.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City: Art. I, 8-26-1968 as Ch. 6 of the 1968 Code of Pocomoke City; Art. II, 5-7-1990 as Ord. No. 308; Art. III, 11-20-1995 as Ord. No. 333. Amendments noted where applicable.]

GENERAL REFERENCES

Moving of buildings -- See Ch. 104.
Unsafe buildings -- See Ch. 107.
Electrical standards -- See Ch. 126.
Fire prevention -- See Ch. 132.
Floodplain management -- See Ch. 135.
Grading and sediment control -- See Ch. 140.
Housing standards -- See Ch. 146.
Plumbing -- See Ch. 183.
Subdivision of land -- See Ch. 205.
Zoning -- See Ch. 230.

ARTICLE I
Building Permits
[Adopted 8-26-1968 as Ch. 6 of the 1968 Code]

§ 101-1. Permit required. [Amended 1-20-1969 by Ord. No. 213]

No person shall build or erect any house, building or other structure within the city without first having obtained a permit for the erection of such building or structure from the City Manager.

§ 101-2. Application procedure; expiration; fees; exceptions. [Amended 1-20-1969 by Ord.

No. 213; 9-23-1970 by Ord. No. 218]

A. No person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure in the applicable jurisdiction, or cause the same to be done, without first obtaining a separate building permit for such buildings or structures from the City Manager. If the City Manager is satisfied that the work described in an application for a permit and the drawings filed therewith conform to the requirements of this Code and other pertinent laws and ordinances, he or she shall issue a permit therefor to the applicant. If the application for a permit and the drawings filed therewith describe work which does not conform to the requirements of this Code or other pertinent laws or ordinances, the City Manager shall not issue a permit but shall return the drawings to the applicant with his or her refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons therefor.

B. Construction under all permits must begin within one (1) year from the date of the issuance of said permit by the City Manager or thereafter the same shall be void and invalid[1].

C. When the City Manager issues a permit, he or she shall endorse, in writing, or stamp both sets of plans "Approved." One (1) set of drawings so approved shall be retained by the City Manager and the other set shall be returned to the applicant. The approved drawings shall be kept at the site of work and shall be open to inspection by the City Manager or the City Manager's authorized representative.

D. Fees. **[Amended 11-5-1979 by Ord. No. 258, approved 11-8-1979; 7-7-1980 by Ord. No. 262, approved 7-7-1980]**

(1) No permit shall be issued until the prescribed fees shall have been paid, nor shall an amendment to a permit be approved until the additional fee, if any, due to an increase in the estimated cost of the building or structure shall have been paid. The prescribed fees shall be determined by the Council by resolution[2].

(2) A fee, in the amount as shall be determined by the Council by resolution, shall be charged for a permit for the moving or demolition of any building or structure.

E. Exceptions.

(1) Notwithstanding the foregoing provisions of this section, no permit shall be required for the following work, provided that the cost thereof does not exceed one thousand dollars ($1,000.):

(a) Interior painting.

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

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

(b) Exterior painting which does not require the obstruction of pedestrian or vehicular traffic.

(c) Exterior stairway to above grade level which does not require Fire Department or other safety regulation approvals.

(d) Construction or placement of utility buildings or equivalent for the storage of garden tools, toys, etc., provided that the distance requirements of Chapter 230, Zoning, are adhered to.

(e) Construction of outdoor barbecue pits or trash burners which are privately owned and used exclusively by the owner or lessee thereof for noncommercial purposes.

(f) Replacement of roofing which does not require barricades to divert pedestrian or vehicular traffic.

(g) Replacement of front or rear porch flooring but not any enclosure of the area affected.

(h) Replacement of front and rear steps, provided that no greater area than the original construction is involved.

(i) Replacement of gutter and downspouting, if barricades are not involved.

(j) Replacement of window, sash and frames and installation of storm windows, if no interference to the general public is involved.

(k) Replacement of doors, door frames and storm doors, if no inconvenience to the general public is involved.

(l) Replacement of garage doors, provided that no other alterations are contemplated.

(m) Replacement of skylights, if no interference to the general public is involved.

(n) Replacement of original chimneys. Additional chimney construction will be considered on its merits as related to fire, safety and zoning regulations.

(2) Projects of a like nature as those mentioned above will be considered by the City Manager and may be included in the above categories.

§ 101-3. Construction without permit prohibited. [Amended 1-20-1969 by Ord. No. 213]

It shall be the duty of every contractor or builder, before beginning the building or erection of any house, building or other structure within the city, to discover whether or not the necessary permission of the Council has been obtained for the building of such house, building or structure, and no person shall build, construct or begin to build or construct any house, building or

structure, for himself or herself or another, within the city unless a permit therefor has first been obtained as above specified and required.

§ 101-4. False statements in application.

No person shall make, in his or her written application for a building permit under this Article, any false or untrue statements as to the location, size, dimensions, material or proposed use of any house, building or other structure with the intention of wrongfully obtaining a permit therefor.

§ 101-5. Alterations and extensions.

The words "house, building or structure," as used in this Article, shall be construed to include not only new houses, new buildings or new structures but also all extensions or other changes and repairs to old or existing houses, buildings or structures by which the same are increased in height or other dimensions or where there is a change of any kind of any exterior part of any such house, building or structure or where there is a plan to alter any old building in such a way as to make it available for a use or purpose different from that for which it was before used.

§ 101-6. Inspections. [Amended 1-20-1969 by Ord. No. 213]

It shall be the duty of the City Manager to inspect all buildings in the course of erection in the city to see that no buildings are erected of materials that are dangerous to human life by reason of unsoundness of materials or dangerous method of construction or other causes. Upon finding any unsafe materials being used or a dangerous method of construction, the City Manager shall notify the person in charge of construction to discontinue the use of such materials and to remove and replace the same by proper and safe materials or to discontinue such dangerous method of construction and to correct such part of the building as may have been constructed by such faulty or dangerous method. The City Manager shall immediately report all the facts and circumstances with relation thereto to the Council for such legal action as the Council may deem appropriate.

§ 101-7. Abatement of nuisances. [Amended 1-20-1969 by Ord. No. 213]

In addition to the penalties provided for violation of this Article, the Council may proceed against any house, building or other structure erected, repaired or altered in violation of this Article as a nuisance, if the same shall be in fact a nuisance, and may abate the same, if that course shall seem to it proper.

§ 101-8. Violations and penalties[3].

Violations of the provisions of this Article shall be a municipal infraction and shall be punishable by a fine as set forth in the Fees, Charges and Rates Schedule, as adopted by resolution of the

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

City Council from time to time[4].

ARTICLE II
Multifamily and Commercial Structures
[Adopted 5-7-1990 as Ord. No. 308]

§ 101-9. Multifamily structures; violations and penalties.

A. "Multifamily structure" defined. For the purposes of this section, a "multifamily structure" is defined as being a building containing two (2) or more dwelling units designed for or used exclusively for residential purposes, including townhouses.

B. Applicability of section. The provisions of this section shall apply to all multifamily structures for which building permits have not been obtained prior to July 1, 1990.

C. Applicability of Building Code. The current edition of the Building Officials and Code Administrators (BOCA) Building Code shall apply to all multifamily structures.

D. Inspections. The city department designated by the City Manager shall be responsible to perform such inspections as may be deemed necessary and appropriate to ensure compliance with the provisions of this section.

E. Violations. Any person who violates the provisions of this section shall be guilty of a municipal infraction and subject to a fine as set forth in the Fees, Charges and Rates Schedule, as adopted by resolution of the City Council from time to time[5].

F. Sprinkler system. **[Added 4-15-1991 by Res. No. 203]**

(1) For all new multifamily construction a sprinkler system in accordance with the following shall be installed:

(a) National Fire Code NFPA 13, Standard for the Installation of Sprinkler Systems, as from time to time amended, shall apply to all multifamily construction over four (4) stories or having more than twenty-five (25) units.

(b) National Fire Protection Code NFPA 13R, Standard for the Installation of Sprinkler Systems, as from time to time amended, shall apply to all multifamily construction to which NFPA 13 does not apply.

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4 Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

5Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office. Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

(2) For the purposes hereof, "unit" shall include, without limitation, townhouses, apartments, lodging, boarding- and rooming house rooms, hotel or motel rooms and dormitory beds. "Multifamily" shall mean any construction with three (3) or more units.

§ 101-10. Commercial structures; violations and penalties.

A. "Commercial structure" defined. For the purpose of this section, a "commercial structure" is defined as being a building used, designed or intended for use as a commercial structure.

B. Applicability of section. The provisions of this section shall apply to all commercial structures for which building permits have not been obtained prior to July 1, 1990.

C. Applicability of Building Code. The current edition of the Building Officials and Code Administrators (BOCA) Building Code shall apply to all commercial structures.

D. Inspections. The city department designated by the City Manager shall be responsible to perform such inspections as may be deemed necessary and appropriate to ensure compliance with the provisions of this section.

E. Violations. Any person who violates the provisions of this section shall be guilty of a municipal infraction and subject to a fine as set forth in the Fees, Charges and Rates Schedule, as adopted by resolution of the City Council from time to time[6].

F. Sprinkler system. In addition to any sprinkler system required under any other subsection hereof, for all new commercial structures classified as "Group F, Factory and Industrial Buildings"; "Group H, High Hazard Buildings"; and "Group S, Storage Buildings" in the current edition of the Building Officials and Code Administrators (BOCA) Building Code in excess of twelve thousand (12,000) square feet, measured from outside wall to outside wall, regardless of the number and type of interior walls, a sprinkler system shall be installed in accordance with NFPA 13 Standard for the Installation of Sprinkler Systems, as from time to time amended. For the purpose of this requirement, all commercial buildings constructed on the same parcel erected less than ten (10) feet apart shall be classified as one (1) building. **[Added 4-15-1991 by Res. No. 203]**

ARTICLE III
Single-Family Structures
[Adopted 11-20-1995 as Ord. No. 333]

§ 101-11. Construction standards; violations and penalties.

6Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office. Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

A. "Single family structure" defined. For the purposes of this section, a "single-family structure" is defined as being a building containing not more that one (1) dwelling unit designed for or used exclusively for residential purposes.

B. Applicability of section. The provisions of this section shall apply to all single-family structures for which a building permit has not been obtained prior to January 1, 1996.

C. Applicability of Building Code. ~~The current edition of the Building Officials and Code Administrators (BOCA) Building Code shall apply to all single-family structures.~~ Amended By Ordinance No. 405, December 6, 2010.

The Maryland Building Performance Standards Regulations as set forth in the Code of Maryland Regulations (COMAR) 05.02.07 shall apply to all single-family structures, EXCEPT THAT THE PROVISION OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO- FAMILY DWELLINGS, WHICH REQUIRES THAT AN AUTOMATIC RESIDENTIAL FIRE SPRINKLER SYSTEM SHALL BE INSTALLED IN ONE- AND TWO-FAMILY DWELLINGS, EFFECTIVE JANUARY 1, 2011, SHALL NOT APPLY TO THE CONSTRUCTION OF A “SINGLE FAMILY STRUCTURE,” AS DEFINED IN THIS SECTION.

SECTION II. SEVERABILITY. Should any provision, section, paragraph or subparagraph of this Article, including any code or text adopted hereby, be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable by a court having competent jurisdiction, the same shall not affect the validity, legality, or enforceability of any other provision, sections, paragraph or subparagraph hereof, including any code or text adopted hereby. Each such provision, section, paragraph or subparagraph is expressly declared to be and is deemed severable.

SECTION III. ADDITION TO CODE. It is the intention of the Council, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, and the Sections of this ordinance may be renumbered to accomplish such intention.

SECTION IV. EFFECTIVE DATE. This Ordinance shall take effect upon the approval of the Mayor or by passage of the Ordinance by a four-fifths vote of the whole Council if vetoed by the Mayor.

D. Inspections. The city department designated by the City Manager shall be responsible to perform such inspections as may be deemed necessary and appropriate to ensure compliance with the provisions of this section.

E. Violations. Any person who violates the provisions of this section shall be guilty of a municipal infraction and subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[7].

ARTICLE IV
PUBLIC SAFETY EMERGENCY RADIO COVERAGE
[ADOPTED 12-04-2006 BY ORD. NO. 387].

7Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office. Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 101-12. ADOPTION OF COUNTY REGULATIONS.

Pocomoke City hereby adopts the provisions set forth in the Worcester County Code Under Chapter 17, “Public Safety Artilce” tile 6, ‘Emergency Service”, Sections 6-201 to 6-207, pursuant to section ps 6-202. [Adpoted 12-04-2006 by Ord. No. 387].

Section § 101-13 Adopted March 7, 2011 by Ordinance No. 406

§101-13.A. Statement of Policy. It is hereby declared to be the policy of the Mayor and City Council of Pocomoke City to grant a safety rebate to owners of newly constructed single family structures within City limits that install an approved automatic sprinkler system in such structures.

§101-13.B. Definitions. The following terms as used in this Chapter shall have the meanings indicated:

“Approved Automatic Sprinkler System” means a residential fire sprinkler system, or portion thereof, installed in accordance with the standards, codes and regulations set forth or referenced in the International Residential Code (IRC).

”Owner” means any person, agent, firm or corporation having a legal or equitable interest in the property.

“Single Family Structure” means a structure as described in Section 101-11.A. of the Pocomoke City Code and, to be eligible for a safety rebate, means a structure in which the “IRC” would require the installation of an automatic sprinkler system.

§101-13.C. Amount of Safety Rebate. Owners of newly constructed single family structures located within Pocomoke City, Maryland who install or begin the installation process for an approved automatic sprinkler system within three (3) years of the effective date of this ordinance shall be entitled to a safety rebate of Two Thousand Dollars ($2,000.00) or fifty percent (50%) of the annual real property tax amount, whichever is less. The amount rebated shall not be construed as a refund of any real property taxes and shall be construed as being only a safety rebate from the City’s general fund. Only one safety rebate shall be payable for a single family structure, as defined herein.

§101-13.D. Registration of Sprinkler System and Approval of Tax Credit. Requirement – An owner who intends to install an automatic sprinkler system in a newly constructed single family structure shall apply to the Pocomoke City Town Hall for a safety rebate before the installation of an approved system is completed. The proposed sprinkler system must be shown on the construction plans for the proposed house prior to issuance of a City Building permit. Following a completed installation, each owner desiring a safety rebate shall present an inspection certificate from the Fire Marshall or other appropriate governmental agency representative certifying the installed system in accordance with the standards contained in the current version of the International Residential Code, along with proof of the cost of the installation of said system before a final approved safety rebate shall be granted. Upon proof that the owner has satisfied the written requirements listed above, Pocomoke City shall provide written documentation to the owner detailing the amount of the safety rebate.

Chapter 104

BUILDINGS, MOVING OF

§ 104-1. Permit required.
§ 104-2. Application for permit; fee.
§ 104-3. Deposit for expense to city.
§ 104-4. Deposit for damages and liability.
§ 104-5. Inspection prior to issuance of permit.
§ 104-6. Standards for issurance of permit
§ 104-7. Disposition of fees and deposits.
§ 104-8. Designation of streets for moving operations.
§ 104-9. Duties of permittee.
§ 104-10. Enforcement; liability.
§ 104-11. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-26-1968 as Ch. 8 of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101. **Streets and sidewalks -- See Ch. 201.**

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§ 104-1. Permit required.

No person shall move any building over, along or across any street or alley in the city without first obtaining a permit from the City Clerk.

§ 104-2. Application for permit; fee.

A. A person seeking issuance of a permit hereunder shall file an application with the City Clerk, in writing, upon forms provided by the city. The application shall set forth:

(1) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and conditions of exterior and interior.

(2) A legal description of the lot from which the building is to be moved, giving the lot number and street name, if located in the city.

(3) A legal description of the lot to which it is proposed that such building be removed, giving lot number and name of street, if located in the city.

(4) The portion of the lot to be occupied by the building when moved.

(5) The streets and alleys over, along or across which the building is proposed

to be moved.

(6) Proposed moving date and hours.

(7) Any additional information which the City Clerk finds necessary to a fair determination of whether a permit should issue or not.

B. The application shall be accompanied by a permit fee in the amount as shall be determined by the Council by resolution[1]. **[Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]**

§ 104-3. Deposit for expense to city. [Amended 1-20-1969 by Ord. No. 213]

Upon receipt of an application, it shall be the duty of the City Clerk to procure from the Superintendent of Public Works an estimate of the expense that will be incurred in removing and replacing any electric wires, streetlamps or pole lines belonging to the city or any other property of the city, the removal and replacement of which will be required by reason of the moving of the building through the city, together with the costs of materials necessary to be used in making such removals and replacements. Prior to issuance of the permit, the City Clerk shall require of the applicant a deposit of a sum of money equal to twice the amount of the estimated expense.

§104-4. Deposit for damages and liability. [Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]

An application hereunder shall be accompanied by a cash deposit in the sum as shall be determined by the Council by resolution as an indemnity for any damage which the city may sustain by reason of damage or injury to any highway, street or alley, sidewalk, fire hydrant or other property of the city which may be caused by or be incidental to the removal of any building over, along or across any street in the city and to indemnify the city against any claim of damages to persons or private property and to satisfy any claims by private individuals arising out of, caused by or incidental to the moving of any building over, along or across any street in the city.

§ 104-5. Inspection prior to issuance of permit. [Amended 1-20-1969 by Ord. No. 213]

The Superintendent of Public Works shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit are met.

§ 104-6. Standards for issuance of permit. [Amended 1-20-1969 by Ord. No. 213]

The City Clerk shall refuse to issue a permit if the Clerk finds, or if the Clerk is notified by the Superintendent of Public Works, that:

A. Any application requirement or any fee or deposit requirement has not been

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1Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

complied with.

B. The building is too large to move without endangering persons or property in the city.

C. The building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the city.

D. The applicant's equipment is unsafe and that persons and property would be endangered by its use.

E. Other provisions of this chapter would be violated by the building in its new location.

F. For any other reason persons or property in the city would be endangered by the moving of the building.

§ 104-7. Disposition of fees and deposits.

A. Upon the refusal to issue a permit, the City Clerk shall return to the applicant all deposits. However, the permit fee filed with the application shall not be returned.

B. After the building has been removed, the City Clerk shall furnish the Council with a written statement of all expenses incurred in removing and replacing all property belonging to the city and all material used in the making of the removal and the replacement, together with a statement of all damage caused to or inflicted upon property belonging to the city. The Council shall authorize the City Clerk to return to the applicant all deposits, after deducting the sum sufficient to pay all of the costs and expenses and for all damage done to property of the city by reason of the removal of the building. Permit fees deposited with the application shall not be returned. **[Amended 1-20-1969 by Ord. No. 213]**

§ 104-8. Designation of streets for moving operation. [Amended 1-20-1969 by Ord. No. 213]

The City Clerk shall procure from the Superintendent of Public Works a list of designated streets over which the building may be removed. The City Clerk shall have the list approved by the Chief of Police and shall produce the list upon the permit in writing. In making their determination, the Superintendent of Public Works and the Chief of Police shall act to assure maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets.

§ 104-9. Duties of permittee.

Every permittee under this chapter shall:

A. Move a building over only streets designated for such use in the written permit.

B. Notify the City Clerk, in writing, of a desired change in moving date and hours as proposed in the application.

C. Notify the City Clerk, in writing, of any and all damage done to property belonging to the city within twenty-four (24) hours after the damage or injury has occurred.

D. Comply with all other applicable ordinances and laws upon relocating the building in the city.

E. Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition.

§ 104-10. Enforcement; liability. [Amended 1-20-1969 by Ord. No. 213]

The City Clerk, the Police Department and the Superintendent of Public Works shall enforce and carry out the requirements of this chapter. The permittee shall be liable for any expense, damage or cost in excess of the deposited amount, and the City Attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts.

§ 104-11. Violations and penalties[2].

Violation of this chapter shall be a municipal infraction and shall be punishable by a fine as set forth in the Fees, Charges and Rates Schedule, as adopted by resolution of the City Council from time to time[3].

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

3Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 107

BUILDINGS, UNSAFE

§ 107-1. Defination; abatement; notice to Owner; posting of premises.
§ 107-2. Hearings.
§ 107-3. Noncompliance procedures.
§ 107-4. Emergencies.
§ 107-5. Collection of costs; liens; administrative fee.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-26-1968 as Ch. 7 of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101.
Housing standards -- See Ch. 146.
Nuisances -- See Ch. 169.

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§107-1. Definition; abatement; notice to owner; posting of premises.

All buildings or structures which are unsafe, unsanitary or not provided with adequate egress or which constitute a fire hazard or are otherwise dangerous to human life or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are severally, in contemplation of this section, unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the following procedures:

A. Whenever the Council shall find any building or structure or portion thereof to be unsafe, as defined in this section, it shall, in accordance with established procedure for legal notices, give the owner or the owner's agent written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements or to demolish and remove the building or structure or portion thereof. Sufficient notice shall be deemed to have been given if given by registered or certified mail addressed to the owner or the owner's agent at his or her last known address as the same appears upon the city's tax records. **[Amended 1-20-1969 by Ord. No. 210]**

B. If necessary, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the City Manager. The City Manager shall cause to be posted at each entrance to such building a notice: "This building is unsafe and its use or occupancy has been prohibited by the Council of Pocomoke City." Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation, or his, her or its agents or other servants, to remove such notice without written permission of the City Manager or for any person to enter the building except for the purpose of making the required repairs or of demolishing the same.

§ 107-2. Hearings.

The owner of the property shall have the right, except in cases of emergency, to appear before the Council at a time and place specified in the notice to show cause why he or she should not comply with the requirements of the notice. If the right hereby provided for shall be exercised by the owner, the Council may, after affording the owner an opportunity to be heard, confirm, set aside or modify its original notice and order.

§ 107-3. Noncompliance procedures. [Amended 1-20-1969 by Ord. No. 210]

In case the owner, agent or person in control cannot be found within the stated time limit or if such owner, agent or person in control shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or to demolish and remove said building or structure or portion thereof as ordered, the City Manager, after having ascertained the costs, shall cause such building or structure or portion thereof to be demolished or secured or to remain vacant.

§107-4. Emergencies.

In case of an emergency involving imminent danger to human life or health, the Council shall promptly order the City Manager to cause such building, structure or portion thereof to be made safe or removed. For this purpose, he or she may at once enter such structure or land on which it stands, or abutting land or structures, with such assistance and at such costs as he or she may deem necessary. He or she may vacate adjacent structures or protect the public by appropriate fencing or such other means as may be necessary and, for this purpose, may close a public or private way.

§ 107-5. Collection of costs; liens; administrative fee. [Amended 1-20-1969 by Ord. No. 210; 3-6-1978 by Ord. No. 252, approved 3-7-19718]

The cost of any such work performed by the city under this chapter shall constitute a lien on the property and, unless paid in full by the property owner within thirty (30) days after the same is billed by the City Clerk, shall draw interest from and after said thirty (30) days at the rate of two-thirds of one per centum (2/3 of 1%) per month or fraction of a month, and the cost thereof, if not paid, shall be added to the next annual tax bill of said property, and the City Clerk shall not accept payment for or receipt said tax bill unless the amount so assessed against said property, with interest thereon, is included in the amount paid. An administrative fee of twenty-five percent (25%) will be charged in addition to the cost of performing the work.

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

Chapter 109

BUSINESS LICENSES

§ 109-1. Title.
§ 109-2. Word usage and definitions.
§ 109-3. License required.
§ 109-4. Application procedure; display of license.
§ 109-5. Term of license; fee schedule.
§ 109-6. License conditions; action by Mayor and Council; Applicability.
§ 109-7. Violations and penalties.
§ 109-8. Conflict with other provisions.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-2-1976 as Ord. No. 244, approved 8-3-1976 (Ch. 19 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting -- See Ch. 180.

Transient merchants -- See Ch. 214.

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§ 109-1. Title.

This chapter shall be known and may be cited and referred to as the "Pocomoke City Business License Ordinance."

§ 109-2. Word usage and definitions.

A. Certain words or terms in this chapter are defined for the purpose thereof as follows: Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural, and the plural number the singular.

B. The following terms, wherever used herein, shall have the respective meanings assigned to them, unless a different meaning clearly appears from the context:

ESTABLISHMENT, ESTABLISHMENTS or PLACE OF BUSINESS -- A building or part thereof or each stand at or from which any merchandise or commodity is dispensed or facilities or services are provided to members of the general public or members of an association, club or other business or the like.

PERSON or PERSONS -- Individuals, partnerships, associations and corporations.

REGULARLY DOING BUSINESS WITHIN THE CITY--Providing or performing a service or carrying on a business or occupation for more than a total of thirty (30) days out of each calendar year.[Added 12-14-98 by Ord. No. 351]

§ 109-3. License required.

No person shall engage in or carry on or aid in or aid or assist, as employee, clerk or otherwise, in the City of Pocomoke City, Maryland, any business, occupation or activity hereinafter mentioned in this chapter, nor use therefor any wagon, vehicle, stand, store or other place or thing, without first having obtained from the City Clerk of Pocomoke City a license for such business, occupation or activity.

§ 109-4. Application procedure; **display of license**.

A. The application for licenses required by § 109-3 hereof shall be made to the City Clerk at his or her office in the City Hall Building, and no license shall be granted until the license fee hereinafter specified shall have been paid in full.

B. Each such license and each such application shall specify by name the person to whom it shall be issued, the business, occupation or activity for which it is granted and the location at which the business is to be carried on.

C. Each license shall be conspicuously displayed on the licensed premises.

§ 109-5. Term of license; **fee schedule**.

A. All license fees shall be due and payable to the Clerk as aforesaid on September 1 of each year, and all licenses shall expire on August 31 following.

B. [**Amended 7-7-1980 by Ord**. **No**. **262**, **approved 7-7-1980**] The nominal annual license fee, in the amount as shall be determined by the Council by resolution, shall be charged for the following types of businesses, with license fees to be paid annually, as provided above, to the City of Pocomoke City:

(1) Apartments, cottages, cabins, motor courts, hotels, motels, inns, boardinghouses or other establishments offering rooms for rental.

(2) Any establishment offering for public use three (3) or more of any form of game or apparatus operated by coins or slugs, but not including vending machines for food, soft drinks or tobacco.

(3) Arts and crafts dealers or galleries.

(4) Auction stores.

(5) Automobile rental or leasing agencies.

(6) Bake shops.

(7) Banks or other financial or lending associations, institutions or corporations.

(8) Barbershops.

(9) Beauty parlors or establishment.

(10) Bicycle sale, rental or repair centers.

(11) Bowling alleys.

(12) Bus terminals.

(13) Manufacturers.

(14) Mechanical car washes.

(15) Weight scales.

(16) Places of entertainment, including dance halls, barrooms, taverns and other places of entertainment.

(17) Restaurants or hotel/motel dining rooms.

(18) Dry-cleaning, laundry or pressing establishments.

(19) Laundromats.

(20) Exterminators.

(21) Garages or lots for commercial storage or parking of vehicles.

(22) Gasoline and oil service stations.

(23) Ice storage boxes and/or dispensers located on the exterior of buildings.

(24) Insurance agency with office in the city.

(25) Mobile home or trailer sales.

(26) Pawnbroker or petty loan establishments.

(27) Photograph galleries or studios or any commercial photography business, including portrait studios.

(28) Pool halls, except those operated by civic, charitable or fraternal organizations.

(29) Shoe repair shops.

(30) Shops, stands or retail sales stores.

(31) Sign painters, self-employed.

(32) Taxicabs or jitneys for the transportation of passengers, each vehicle.

(33) Bail bondsman.

(34) General contractors, sub contractors, and home improvement contractors. [**Amended 12-14-1998 by Ord. No. 351**]

(35) Television, furniture, crib or cot rentals or leases.

(36) Family yard, garage or basement sales of goods not purchased for resale, except that no license shall be required for the first two (2) such sales during any calendar year. [**Amended 6-15-1987 by Ord. No. 292**]

(37) Public utilities with a retail sales outlet.

(38) Oil or petroleum product distribution or storage.

(39) Professional offices, such as doctor, lawyer, dentist, accountant, etc.

(40) Theaters showing films or having live entertainment, including the right to sell confections by machine or over the counter.

(41) Junk dealers or secondhand shops.

(42) Flea markets, each stand or stall, daily license only, to be obtained by the promoter or organizer.

(43) Promotional advertising.

(44) Family day-care provider homes, nursery schools, day-care centers and dance schools. [**Amended 2-17-1992 by Ord**. **No**. **318**]

(45) Electrical contractors, plumbing contractors, HVAC contractors, mechanical contractors, excavation contractors and sub-contractors and inspectors. [**Amended 12-14-1998 by Ord**. **351**]

(46) Private clubs.

(47) Locksmiths.

(48) Taxidermists.

(49) Any other business not herein classified or enumerated and not prohibited herein or by another chapter of this Code and approved by the City Clerk of Pocomoke City.

C. Notwithstanding the language above written, any owner or operator engaging in any two (2) or more of the businesses enumerated in Subsection B above at the same location will be required to obtain only one (1) license, which will list all businesses operated at that location.

D. The license fee, in the amount as shall be determined by the Council by resolution, shall be charged for hawking, soliciting or peddling within Pocomoke City as specified in § 180-4, as amended, of the Code of Pocomoke City, Maryland. [**Amended 7-7-1980 by Ord**. **No**. **262**, **approved 7-7-1980**]

§ 109-6. License conditions; **action by Mayor and Council**; **applicability**.

A. It shall be a condition to the issuance of any and all licenses under this chapter that the business licensed shall be used and operated only for lawful purposes and that the licensee shall exercise sufficient control over the establishment so as to not allow the establishment to be used and operated in a manner that would be detrimental to or adversely affect the health, safety, morals, peace, comfort and general welfare of the surrounding properties and residents and/or the public in general. As a further condition to the issuance of a license, the licensee shall use and operate the business in accordance with all applicable federal, state and local laws, ordinances, rules and regulations.

[**Amended 5-6-1985 by Ord. No. 285, approved 5-10-1985**]

B. [**Amended 5-6-1985 by Ord. No. 285, approved 5-10-1985**] The right is reserved to the Mayor and Council to refuse to grant any license, to suspend or revoke any license previously granted or to place appropriate restrictions on any license which is determined by the Mayor and City Council, after notice and opportunity for a hearing, to be detrimental to or to adversely affect the health, safety, morals, peace, comfort and general welfare of the surrounding properties and residents and/or the public in general. In making a determination as to what action to take regarding a license, the Mayor and Council may consider, in addition to any other relevant factors, the following types of problems or conditions:

(1) Excessive noise emanating from the establishment or premises.

(2) Excessive traffic congestion.

(3) Excessive loitering outside the establishment during or after business hours.

(4) Trash accumulation, littering or allowing litter to go onto surrounding properties.

(5) Fighting and/or disorderly conduct on the premises.

(6) Premises being used for illegal activities, with or without the knowledge of the licensee.

(7) Any activities creating a common law nuisance.

C. The terms of this chapter shall apply to businesses located within or regularly doing business within the corporate limits of Pocomoke City. [**Amended 12-14-1998 by Ord. No. 351**]

D. No license shall be issued to any person for a business located in an area not zoned for that purpose or to any person for a business which may be in violation of any other city ordinance.

E. No business license will be issued to any person who has not paid prior years' personal property taxes in Pocomoke City.

F. No business license will be issued to any person or business required under State or County law to first have obtained a license or certificate for the profession or trade in which it is engaged unless a copy of a current license or certificate is on file with the City Clerk. [**Added 12-14-1998 by Ord. No. 351**]

G. No general contractor, sub-contractor or home improvement contractor shall perform work on any property within the City or obtain a permit to perform work within the City without have first obtained a business license under this Chapter and complied with this Section 109-6. [**Added 12-14- 1998 by Ord. No. 351**]

H. All general contractors, sub-contractors and home improvement contractors shall have available at their place of business and at each work site where they are performing any service within the City of Pocomoke City, Maryland, a copy of a current business license issued pursuant to this Chapter 109. [**Added 12-14-1998 by Ord. No. 351**]

I. This Chapter shall not apply to the delivery of property or materials within the City when the only service performed in connection with such delivery is unloading and placing the property or materials at the site or location. [**Added 12-14-1998 by Ord. No. 351**]

§ 109-7. Violations and penalties. [**Amended 5-6-1985 by Ord. No. 285, approved 5-10-1985**[1]]

Any violator of this chapter shall be guilty of a municipal infraction, and said violation shall be governed by the provisions of Chapter 1, General Provisions, Article V, Municipal Infractions, and any person found to have committed said municipal infraction shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time.[2] Each and every day that a person shall be in violation of this chapter shall constitute a separate offense.

§ 109-8. Conflict with other provisions.

If this chapter permits the licensing of a business or activity that is prohibited by some other chapter or section thereof of the Code of Pocomoke City, Maryland, such other chapter or section thereof so prohibiting that business or activity shall control, whether or not provisions are made in this chapter to license the same. If this chapter prohibits a business or activity that is permitted by some other chapter or section thereof, this chapter so prohibiting shall control.

1**Editor's Note**: **Amended at time of adoption of Code**; **see Ch. 1**, **General Provisions**, **Art. I.**

2**Editor's Note**: **The current Fees**, **Charges and Rates Schedule is on file in the City Clerk's office**.

Chapter 112

CIRCUSES AND PARADES

ARTICLE I

Circuses and Other Public Exhibitions

§ 112-1. License required; fees; exceptions.
§ 112-2. Inspections; insurance discorderly conduct; revocation of license.
§ 112-3. Entertainment halls.
§ 112-4. Issuance or denial of license.
§ 112-5. Appeals.

ARTICLE II

Parades

§ 112-6. Permit required; exceptions.
§ 112-7. Application for permit.
§ 112-8. Issuance or denial of permit; time.
§ 112-9. Appeals.
§ 112-10. Alternate time or route.
§ 112-11. Conditions or permit.
§ 112-12. Interference with parade; parking on route.
§ 112-13. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-6-1969 as Ord. No. 202 (Ch. 9 of the 1968 Code). Amendments noted where applicable.]

ARTICLE I
Circuses and Other Public Exhibitions

§ 112-1. License required; fees; exceptions.

A. Except as provided in § 112-3, it shall be unlawful for any person, within the corporate limits of the city, to present any play, farce, interlude, show, opera, concert, moving-picture show, circus menagerie or other public exhibition of any kind whatsoever unless he or she shall first have obtained a license therefor from the City Clerk.

B. There shall be paid, at the time of filing the necessary application for a license, a fee, in the amount as shall be determined by the Council by resolution, for every circus or feat of horsemanship performed under a covering of canvas or any other material temporarily erected for that purpose. For every other exhibition of any kind whatsoever, the amount of the license fee shall be in the amount as shall be determined by the Council by resolution[1]. **[Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]**

C. Nothing herein shall be construed to require any license when the public

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1Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

exhibition is to be held on the premises of any church, governmental body or agency or private nonprofit institution.

§ 112-2. Inspections; insurance; disorderly conduct; revocation of license2.

A. Inspection of premises; denial of permission; conditions.

(1) Before the City Clerk shall grant permission as provided herein, the premises where a circus or carnival is proposed to be held or any type of mechanical ride is proposed to be installed shall be inspected by the Police Chief, Fire Chief or such other person designated by the City Manager in order to ascertain whether such premises is suitable for the purpose and free from dangerous or hazardous features. The City Manager may cause other investigations or inspections to be made in order to secure the facts needed by the City Manager in determining whether or not the permission shall be granted.

(2) The City Manager may deny such permission on account of the existence of any unsanitary, hazardous or dangerous condition or because the location is deemed by the Manager to be unsuitable on account of the creation of a traffic hazard, the lack of accommodations for the number of persons and/or vehicles likely to be attracted thereto or a specific threat to the health or safety of the performers or persons in attendance.

(3) In every case the City Manager, in granting such permission, shall state the type of entertainment authorized and the time for which permission is to remain in effect. Such permission may be granted conditionally, dependent upon the taking of stipulated action by the holder of the license in order to meet standards of sanitation and safety.

B. Liability insurance. Every applicant for a license for a circus or carnival shall, before such license is granted, furnish the City Manager with evidence that a public liability insurance policy in amounts of not less than two hundred thousand dollars ($200,000.) for one (1) person and one million dollars ($1,000,000) for any one (1) accident shall be in force and effect at the time such circus or carnival is to operate in the city. Such policy shall be subject to the approval of the City Attorney.

C. Inspection prior to operation. After any license shall be granted under this Article, and before any circus or carnival shall be held or amusement ride operated thereunder, the holder of such license shall furnish the City Manager with a copy of the state inspection certificate to show that all installations made therein are free from dangerous, hazardous and unsanitary features and conditions. The holder of the certificate shall maintain the premises and installations in proper condition for the duration of the license.

D. Disorderly conduct prohibited. No person granted a license under this Article

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2Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

shall permit any disorderly or immoral conduct upon the premises for which such license shall have been granted, nor shall any such person permit any gambling, any sale of obscene literature or any indecent, immoral or lewd act or performance upon such premises.

E. Revocation of license. The City Manager is hereby authorized to revoke any license granted under this Article in case of failure to maintain proper standards of safety and sanitation and in case of the licensee's permitting any gambling, sale of obscene literature or any indecent, immoral or lewd act or performance. In case of revocation of any license as herein provided, no portion of such license shall be returned to the holder of such license.

§ 112-3. Entertainment halls. [Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]

A. It shall be unlawful for any person owning or renting a hall, located within the corporate limits of the city, fitted up permanently for giving entertainment, as referred to in § 112-1, to permit such hall to be used for such purpose without first obtaining a license therefor from the City Clerk. A license fee, in the amount as shall be determined by the Council by resolution, shall be paid therefor[3]. When any entertainment, as referred to in §112-1, is presented in any hall licensed under this section, the license required under §112-1 need not be obtained.

B. Licenses issued under the provisions of this section shall be issued for the year beginning July 1 of one year and expiring June 30 of the succeeding year. All such licenses issued during any year shall be charged for on a pro rata basis from the date of issue until the end of the year in which issued.

§ 112-4. Issuance or denial of license.

A. The City Clerk shall issue a license when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

(1) The conduct of the circus or other public exhibition is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance or to cause a riot.

(2) The concentration of persons, animals and vehicles at the proposed site will not unduly interfere with proper police and other protection of areas contiguous to such site.

(3) The activities proposed by way of a circus or other public exhibition will not be detrimental to the owners or occupants of property in the contiguous areas.

B. The City Clerk shall act upon the application for an exhibition license within three

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3Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

(3) days after filing. If the Clerk disapproves the application, he or she shall mail to the applicant within four (4) days after the date upon which the application was filed a notice of his or her action stating the reasons for his or her denial of the license and returning the exhibition license fee.

§ 112-5. Appeals.

Any person aggrieved shall have the right to appeal the denial of any exhibition license to the Council. The appeal shall be taken within five (5) days after notice of denial is received. The Council shall act upon the appeal within two (2) days following receipt of the appeal.

ARTICLE II
Parades

§ 112-6. Permit required; exceptions.

No person shall engage in, participate in, aid, form or start any parade unless a parade permit has been obtained from the Police Department, except that this section does not apply to funeral processions, students going to and from school classes or participating in educational activities under the immediate direction and supervision of the proper school authorities or a governmental agency acting within the scope of its functions.

§ 112-7. Application for permit. [Amended 12-3-1973 by Ord. No. 234]

A person seeking issuance of a parade permit shall file an application with the City Manager not less than fifteen (15) days nor more than thirty (30) days before the date on which it is proposed to conduct the parade. The application shall set forth the following information:

A. The name, address and telephone number of the person seeking to conduct such parade.

B. If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.

C. The name, address and telephone number of the person who will be the parade chair and who will be responsible for its conduct.

D. The date when the parade is to be conducted.

E. The route to be traveled, including the starting point and the termination point.

F. The approximate number of persons who, and animals and vehicles which, will constitute such parade and the type of animals and description of the vehicles.

G. The hours when such parade will start and terminate.

H. A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

I. The location by streets of any assembly areas for such parade and the time at the parade will begin to assemble at such areas.

J. Any additional information which the Police Department shall find reasonably necessary to a fair determination as to whether a permit should be issued.

§ 112-8. Issuance or denial of permit; time.

A. The Chief of Police shall issue a parade permit when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

(1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(2) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city.

(3) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of areas contiguous to such assembly areas.

(4) The conduct of such parade will not interfere with the movement of fire-fighting equipment en route to a fire.

(5) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance or cause a riot.

(6) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without any unreasonable delays en route.

(7) The parade is not to be held for the sole purpose of advertising any product, goods or event and is not designed to be held purely for private profit.

B. The Chief of Police shall act upon the application for a parade permit within three (3) days after filing. If the Chief of Police disapproves the application, he or she shall mail to the applicant, within four (4) days after the date upon which the application was filed, a notice of his or her action, stating the reasons for the denial of the permit and returning the parade permit fee.

§ 112-9. Appeals.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the Council. The appeal shall be taken within five (5) days after notice. The Council shall act upon the appeal within two (2) days after its receipt.

§ 112-10. Alternate time or route.

The Chief of Police, in denying an application for a parade permit, may authorize application for a parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate time or route shall, within three (3) days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police. Immediately upon the issuance of a parade permit, the Chief of Police shall send a copy thereof to the Mayor, the City Manager and the Fire Chief.

§ 112-11. Conditions of permit.

A. Each parade permit shall state the following information:

(1) Starting time.

(2) Minimum and maximum speeds.

(3) Maximum interval of space to be maintained between the units of the parade.

(4) The portions of the streets to be traversed that may be occupied by the parade.

(5) The maximum length of the parade in miles or fractions thereof.

(6) Such other information as the Police Department shall find necessary to the enforcement of this section.

B. The parade chair or other person heading or leading such activities shall carry the parade permit upon his or her person during the conduct of the parade.

§ 112-12. Interference with parade; parking on route.

No person shall unreasonably hamper, obstruct or impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade. The Police Department shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway, street or part thereof constituting a part of the route of a parade. The Police Department shall post signs to such effect, and when so posted no person shall park or leave unattended any vehicle in violation thereof.

§ 112-13. Violations and penalties4.

Violation of any of the provisions of this chapter shall be a municipal infraction and shall be

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

punishable by a fine as set forth in the Fees, Charges and Rates Schedule, as adopted by resolution of the City Council from time to time[5].

5 Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 120

DRUG-FREE SCHOOL ZONES

§ 120-1. Maps.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 5-21-1990 as Res. No. 192. Amendments noted where applicable.]

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§ 120-1. Maps.

A. The following maps, which are attached hereto and made a part hereof[1], are officially approved as the Drug-Free School Zone Maps for Pocomoke City:

(1) One-thousand-foot Drug-Free Safety Zone: Pocomoke Middle School.

(2) One-thousand-foot Drug-Free Safety Zone: Pocomoke Elementary and High Schools.

B. Said maps shall remain in effect until modified or changed by resolution of the Mayor and Council.

C. Copies of this chapter and the maps shall be filed with the city and shall be maintained as an official record of the city and shall also be forwarded to all law enforcement agencies within Worcester County.

1Editor's Note: The Drug-Free School Zone Maps are on file in the city offices.

Chapter 121

DRY NIGHTCLUBS

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ARTICLE II
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§ 121-3. License Required.
§ 121-4. Requirements for issuance of license.
§ 121-5. Fees.
§ 121-6. Transfer of License.
§ 121-7. Expiration of License.

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§ 121-8 Persons under 21 prohibited in adult dry nightclub.
§ 121-9. Persons under 15 or 21 and over prohibited in minor dry nightclub.
§ 121-10. Hours of Operation.
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§ 121-12. Zoning Code.
§ 121-13. Dry Nightclub supervision.
§ 121-14. Inspection.
§ 121-15. Conduct on licensed premises.

ARTICLE IV
Violations and Penalties

§ 121-16. Hearings.
§ 121-17. Suspension.
§ 121-18. Revocation.
§ 121-19. (Reserved).
§ 121-20. Penalties and remedies.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 01-07-2002 as Ordinance No. 359. Approved 01-08-2002. Note: Chapter number changed from "110" to "121"at publication to correspond with Codebook numbering system. Amendments noted where applicable.]

General Reference: Chapter 230 Zoning.

ARTICLE I
General Provisions

§ 121-1. Legislative Findings.

The City Council has determined that:

(1) Nightclubs, while a legitimate form of entertainment and important to the economy of the City, pose certain dangers that must be guarded against.

(2) Nightclubs with alcoholic beverage licenses are to a large degree controlled by the Board of License Commissioners, by the licensing procedure and by regulations and limitations placed on their licenses.

(3) Nightclubs not holding alcoholic beverage licenses are not controlled by the Board of License Commissioners and therefore can be fraught with uncontrolled public health and safety hazards including, without limitation, overcrowding, public drunkenness, motor vehicle dangers from late night activities as well as uncontrolled use of alcoholic beverages and controlled dangerous substances, exhaustion, lewd and lascivious behavior, abuse and harassment, and other health and safety dangers over which the City Government has little control absent the authority of the Board of License Commissioners.

(4) It is in the best interest of the people of Pocomoke City and the sojourners therein that dry nightclubs as herein defined be licensed and regulated.

§ 121-2. Definitions.

For the purposes of this chapter, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

ADULT means an individual who is twenty-one years of age or older.

ADULT DRY NIGHTCLUB means any dry nightclub whose patrons or admittees are twenty-one (21) years of age or older.

CONVICTION OR CONVICTED means the finding of guilt for a violation of a municipal or county ordinance or state or federal law, adjudication withheld on such a finding of guilt, an adjudication of guilt on any plea of guilty or nolo contendere or the forfeiture of a bond or bail when charged with a violation of a municipal or county ordinance or state or federal law.

DRY NIGHT CLUB means an establishment in which the primary use is as a gathering place for people regardless of age limitations for purposes of entertainment, dancing, social discourse and/or other social activities in the nature of those generally associated with social clubs, nightclubs, dance halls and after hours clubs as American culture has defined by historical experience but not including theaters, schools, bona fide service clubs, churches, or establishments holding alcoholic beverage licenses. The City Manager or his designee shall make the determination of what constitutes a dry nightclub.

DRY NIGHTCLUB REGULATIONS means the regulations set forth in this chapter.

ENTERTAINMENT – live dancing, a band, disc jockey or recorded music or any other activity designed to entertain customers.

KNOWINGLY means with actual knowledge of a specific fact or facts, or with reasonable inquiry a reasonable person should have known a specific fact or facts.

LICENSE OR DRY NIGHTCLUB LICENSE means a license to operate a dry nightclub.

LICENSEE means a person in whose name a license to operate a dry nightclub has been issued, as well as the individual listed as an applicant on the application for a dry nightclub license.

MINOR means an individual who is under the age of twenty-one (21).

MINOR DRY NIGHTCLUB means any dry nightclub whose patrons or admittees are under twenty-one (21) years of age.

PREMISES means a parcel of land, together with all buildings, structures and uses thereon.

PERSON means an individual, corporation, partnership or other entity which may legally own/operate a dry nightclub.

ARTICLE II
License

§ 121-3. License required; application for license.

A. No person may operate a dry nightclub without a dry nightclub license as well as a City business license as required by Chapter 109 of the City Code.

B. A notarized application for a license shall be made on a form provided by the City Clerk. The applicant must be qualified according to the provisions of this chapter.

C. The applicant shall indicate whether the application is for a minor dry nightclub or adult dry nightclub.

D. A person who wishes to operate a dry nightclub shall sign the application for a license as applicant. If a person who wishes to operate a dry nightclub is other than an individual, each individual who has an interest in the business must sign the application for a license as an applicant. Each applicant must meet the requirements of section 121-4, and each applicant shall be considered a licensee if a license is granted. In the case of a corporation, all officers must sign as applicants.

§ 121-4. Requirements for issuance of license; posting.

A. The City Council shall approve issuance or renewal of a dry nightclub license within sixty (60) days after receipt of an application unless the City Manager finds one (1) or more of the following to be true:

(1) An applicant is under twenty-one (21) years of age;

(2) An applicant has failed to answer or falsely answered a question(s) or request for information on the application provided;

(3) An applicant has been convicted of a violation of any dry nightclub regulations within two (2) years immediately preceding the application;

(4) An applicant has failed to obtain a certification from the fire marshal and building inspector that the dry nightclub complies with all applicable provisions of fire, life safety and building codes, relative to places of assembly, including but not limited to maximum permitted occupancy load;

(5) An applicant has failed to obtain a certification from the zoning administrator that the dry nightclub complies with all applicable provisions of the Zoning Code, including but not limited to approval of a conditional use by the Board of Zoning Appeals (unless grandfathered), parking, and all other requirements; or

(6) An applicant has been convicted of a crime:

(a) Involving:

1. Any felony,

2. Any misdemeanor offense of abduction, assault, battery, bribery/obstructing justice, carrying deadly weapon/hand gun violations, controlled dangerous substances, fraud, gaming violations, nudity/sexual display/obscene matter violations, pandering, sexual offenses, theft; or

3. Any violation of dry nightclub or similar regulations of any other city, county, or state government; and

(b) For which:

1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed

for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

3. Less than five (5) years have elapsed since the date of the last conviction or the date or release from confinement for last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period.

4. The fact that a conviction is being appealed has no effect on the disqualifications of the applicant under subsection (a) above.

B. The application shall be reviewed by the police department, the fire marshal and the department of building and zoning for compliance with the provisions of this section. Review shall be conducted by the police department, fire marshal and department of building and zoning within thirty (30) days from the receipt of the application by the City Manager, and their comments forwarded to the City Manager for consideration in issuance of the license in accordance with the provisions hereof.

C. The City Manager, upon approving an application for issuance or renewal of a dry nightclub license, shall forward the application to the Mayor and City Council for final approval. Upon final approval by the Mayor and City Council, the City Manager shall send to the applicant, by certified mail, return receipt requested, written notice of that action and state where the applicant must pay the license fee and obtain the license. The City Council's approval of the issuance of a license does not authorize the applicant to operate a dry nightclub until the applicant has paid all fees required by this chapter and obtained possession of the license.

D. If, after review of the application and related information, the City Manager denies the application, the City Manager shall send a letter recommending denial to the Mayor and City Council for their review within 60 days of the application. A copy of the letter will be sent to the applicant by certified mail. Following a public hearing, the Mayor and City Council may uphold or overrule the City Manager's recommendation.

E. The License shall state on its face the name of the person(s) to whom it is granted, the expiration date, the address of the dry nightclub, and whether it is issued for a minor dry nightclub or adult dry nightclub.

F. The license must be posted in a conspicuous place at or near the main entrance to the dry nightclub so that it may be easily read at any time.

G. No license shall be issued or renewed to any person who has not :

(1) paid any personal property taxes for which a bill has been rendered;

(2) paid any real property taxes due if the licensee owns the premises; or

(3) paid any CDMA dues or other fees which may be outstanding; or

(4) paid all required dry nightclub application fees.

§ 121-5. Fees.

The application and renewal fee for each dry nightclub license shall be $200.00. Licensees must also apply for and obtain a City business license as required under Chapter 109 of this Code, but no additional license fee shall be required. The application fee must be submitted with the application for a license, and is non-refundable.

§ 121-6. Transfer of license.

A licensee shall not transfer a license to another person, nor shall a licensee operate a dry nightclub under the authority of a license at any place other than the address designated in the application.

§121-7. **Expiration of license**.

A. A license for a dry nightclub expires on August 31 of each year. A license may be renewed only by making application as provided in section 121-3. Application for renewal should be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will not be affected by the pendency of the application.

B. If the City Council denies renewal of a license, the applicant may not be issued any dry nightclub license for one (1) year from the date denial becomes final. If, subsequent to denial, the City Manager reports to the City Council that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

ARTICLE III
Regulations

§ 121-8. Persons under twenty-one (21) prohibited in adult dry nightclub.

A. No person under the age of twenty-one (21) years may enter an adult dry nightclub unless accompanied by a parent or guardian.

B. No person shall falsely represent himself to be either a parent or guardian of another person under the age of twenty-one (21) years for the purpose of gaining the other person's admission into an adult dry nightclub.

C. No licensee or employee of an adult dry nightclub shall knowingly allow a person under the age of twenty-one (21) years to enter or remain on the premises of an adult dry nightclub.

D. No licensee of an adult dry nightclub shall maintain or operate the premises without posting a sign at each entrance to the business that reads: "It is unlawful for any person under twenty-one (21) years of age to enter this premises without a parent or guardian." The sign shall be at least four square feet in size and the lettering shall be at least one inch in height.

§ 121-9. Persons under the age of fifteen (15) or twenty-one (21) years of age and over prohibited in minor dry nightclub.

A. No person under the age of fifteen (15) or twenty-one (21) years of age and over may enter a minor dry nightclub.

B. No person shall falsely represent himself to be fifteen (15) years of age or older or under twenty-one (21) years of age for the purpose of gaining admission to a minor dry nightclub.

C. No licensee or employee of a minor dry nightclub shall knowingly allow a person under the age of fifteen (15) or twenty-one (21) years of age or over to enter or remain on the premises of the minor dry nightclub.

D. No licensee of a minor dry nightclub shall maintain or operate the premises without posting a conspicuous sign at the entrance to the business that reads: "It is unlawful for any person under the age of fifteen (15) or age twenty-one (21) years of age or over to enter this premises." The sign shall be at least four square feet in size and the lettering shall be at least one inch in height.

E. It is a defense to prosecution under subsections (a) and (c) that the person is:

(1) A licensee or employee of the dry nightclub;

(2) A parent or guardian of a person inside the dry nightclub; or

(3) A governmental employee in the performance of official duties.

F. Valid identification including photograph and birth date must be provided by any person entering or remaining in a minor dry nightclub.

§ 121-10. Hours of operation (admissions and sales).

A. No person shall operate a minor dry nightclub during any hours other than 4:00 p.m. to midnight, with all patrons off the premises by 12:30 a.m.

B. No person shall operate an adult dry nightclub during any hours other than 4:00 p.m. to 1:30 a.m. of the following day with all patrons off the premises by 2:00 a.m.

C. No person shall operate a dry nightclub on Sundays except for the period from midnight to 1:30 a.m. for an adult dry nightclub.

§ 121-11. Public Safety.

A. Security. The following security shall be provided at all dry nightclubs:

(1) There shall be a minimum of two interior security personnel at least 21 years of age on duty during the hours when the club is open. If the capacity of the club exceeds 200 persons, one additional security person shall be required for each 50 persons over 200. The function of the security personnel shall be only security; they shall not perform other jobs such as dishwashers, bartenders, doorkeepers, etc., while customers are in the building. Security personnel shall be attired in a manner to be clearly identifiable as security personnel. Security personnel must pass a background check similar to day-care workers.

(2) When required by the City Manager, exterior security personnel shall be provided, subject to the same requirements of 11(a)1.

B. Life Safety. No person shall operate a dry nightclub in violation of any applicable provisions of Fire, Building or the Life Safety Codes.

§ 121-12. Zoning Code.

No person shall operate a dry nightclub in violation of any applicable provisions of the Zoning Code.

§ 121-13. Dry nightclub supervisor.

A. A person who operates a dry nightclub shall designate a person as the dry nightclub supervisor and shall register that supervisor's name with the City Manager.

B. The person designated as the dry nightclub supervisor shall comply with the requirements set forth in section 121-4 for applicants.

C. The person designated as the dry nightclub supervisor shall remain on the premises of the dry nightclub during all hours of operation and until thirty (30) minutes after closing to ensure that the operation is conducted in accordance with all dry nightclub regulations hereof.

§ 121-14. Inspection.

A. Application for, and issuance of, any dry nightclub license shall constitute consent by the licensee for representatives of Pocomoke City or any other governmental agency to enter and inspect the premises of the dry nightclub at any time it is open for business or occupied for the purpose of verifying compliance with the law.

B. No person who operates a dry nightclub or a person designated as the dry nightclub supervisor shall refuse to permit a lawful inspection of the premises of a dry nightclub by a representative of Pocomoke City or any governmental agency at any time it is open for business or occupied.

§ 121-15. Conduct on the licensed premises.

A. The following rules of conduct, the observance of which by all persons on a dry nightclub premises shall be the strict responsibility of the licensee, shall apply to all dry nightclubs.

(1) Attire and conduct. With respect to attire and conduct, a person may not:

(a) Be employed in or upon the premises while the person is unclothed or in attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;

(b) Be employed or act as a host or act in a similar-type capacity to mingle with the patrons while the host or person acting in a similar-type capacity is unclothed or in attire, costume or clothing as described in paragraph (1) a. of this subsection;

(c) Encourage or permit any person on the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person; or

(d) Permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion of it.

(2) Entertainment provided generally. With respect to entertainment provided, a person may not:

(a) Permit any person to perform acts or acts which simulate;

1. The act of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

2. The touching, caressing or fondling of the breast, buttocks, anus or genitals; or

3. The display of the pubic hair, anus, vulva or genitals.

(b) Permit any entertainer whose breasts and/or buttocks are exposed to perform; or

(c) Permit any person to use artificial devices or inanimate objects to depict, perform or simulate any activity prohibited by this subsection.

(3) Motion pictures, still pictures, electronic or other visual reproductions. A person may not exhibit or show any motion picture film, still picture, electronic reproduction or other visual reproduction depicting:

(a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(b) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals;

(c) Scenes where a person displays the vulva or anus or the genitals; or

(d) Scenes where artificial devised or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(4) Persons exposing genitals, etc. A person may not permit any person to remain in or upon the licensed premises who exposes to public view any portion of female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(5) Effect of other statues, ordinances, rules or regulations. – The provisions of this section do not permit any conduct or form of attire prohibited by any other provisions of statute, ordinance, rule or regulation.

B. Smoking or chewing of tobacco products shall be prohibited in all dry nightclubs.

C. Contest, exhibitions, shows or demonstrations involving the display of the human body in such a manner as to titillate, excite or entertain the patrons or to promote any type of goods or services shall be prohibited in all dry nightclubs.

D. Alcoholic beverages of any type shall be prohibited in all dry nightclubs.

E. Any dry nightclub premises must be completely enclosed and sound-proofed so that undue, loud or disturbing sounds are not emitted off of the premises. No activity shall be permitted outside the building other than parking, ingress and egress.

F. Patrons will not be permitted to congregate within the parking lot. All parking lots shall be designated, maintained and lit in such a way as to maximize visibility of both the patrons and their vehicles.

G. No person may possess any weapon, firearm or explosive device on any dry nightclub premises.

H. There shall be no outside amplification of any sound.

I. There shall be no outside hawking or soliciting at any time.

ARTICLE IV
Violations and Penalties

§121-16. Hearings.

Upon receipt of written documentation from the Police Chief, Fire Marshal, Building Code Inspector or other governmental source that a violation(s) of this chapter has occurred, the City Manager shall notify the licensee(s) of the alleged violation(s) by hand delivery or certified mailing, and shall refer the suspected violation(s) to the Mayor and City Council for hearing. The City Council shall hold a hearing on the violation not less than seven days but no more than thirty days after the date of the notice to the licensee. After the hearing thereon, if the City Council determines, upon a preponderance of the evidence, that a violation has occurred, the City Council may take the appropriate action as hereinafter set forth.

§121-17. Suspension.

A. The City Council may suspend or refuse to renew a dry nightclub license for a period of time not exceeding thirty (30) days if the City Council determines that a licensee or an employee of a licensee has committed any one (1) or more of the following acts:

(1) Violated any provisions of the dry nightclub regulations in this chapter;

(2) Refused to allow an inspection of the dry nightclub premises so authorized in this chapter;

(3) Knowingly permitted an intoxicated person to remain on the premises;

(4) Knowingly permitted gambling by any person on the dry nightclub premises; or

(5) Knowingly permitted the possession, consumption, or sale of illegal drugs or any alcoholic beverage on the premises of a dry nightclub.

B. If mitigating circumstances so warrant, in lieu of a suspension, the City Council may issue a reprimand or levy a fine not to exceed five hundred dollars ($500.00) per violation.

§121-18. Revocation.

A. The City Council shall revoke a license if a cause of suspension under section 121-17 occurs and the license has been previously suspended within the preceding twelve (12) months.

B. The City Council shall revoke a license if the City Council determines that one (1) or more of the following is true:

(1) A licensee has given false or misleading information in connection with an initial application or renewal application;

(2) A licensee or an employee has knowingly allowed possession, use, or sale of controlled dangerous substances or any derivative thereof on the premises;

(3) A licensee or an employee knowingly permitted dancing, a disc jockey or a live performance during a period of time when the dry nightclub license was suspended; or.

(4) A licensee has been:

(a) Convicted of an offense listed in section 121-4 for which the time period required in section 121-4 has not elapsed; or

(b) Convicted of or is under indictment for any felony offense while holding a dry nightclub license.

(5) While an employee of the dry nightclub, and while on the licensed premises, a person has committed an offense listed in section 121-4, for which a conviction has been obtained, two (2) or more times within a twelve (12) month period.

C. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

D. When the City Council revokes a license, the revocation will continue for one (1) year, and the licensee may not be issued any dry nightclub license for one (1) year from the date revocation became final. After one (1) year, the former licensee may begin the application process for a new dry nightclub license. If, subsequent to revocation, the City Council finds that the basis for the revocation action has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became final. If the license was revoked under subsection (b) (4) hereof, an applicant may not be granted another license until the appropriate number of years required under section 121-4 has elapsed.

§ 121-20. Penalties and remedies.

A person who operates or causes to be operated a dry nightclub without a valid license or in violation of any provision of this article shall be subject to the following penalties and/or remedies:

A. Violations of this article are misdemeanors, and upon conviction thereupon subject to a fine of not more than Five Hundred Dollars ($500.00) or imprisonment of not more than thirty (30) days or both.

B. Each day that any violation continues after receipt of a written notice of such violation shall constitute a separate violation and a separate offense for purposes of the penalties and remedies specified herein.

C. In addition to the penalties and remedies above, the city may institute any appropriate civil or criminal action or proceedings to prevent, restrain, correct or abate a violation of this chapter, as provided by law.

Chapter 126

ELECTRICAL STANDARDS

§ 126-1. Conformity with chapter required; exceptions.
§ 126-2. Permit and inspection required; emergencies; cut-in cards; exceptions.
§ 126-3. Licensing regulations; definitions; exceptions.
§ 126-4. National Electrical Code adopted.
§ 126-5. Acceptable appliance.
§ 126-6. Inspections and tests; right of entry; correction of defects.
§ 126-7. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-8-1996 as Ord. No. 335. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101. **Housing standards -- See Ch. 146.**

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§ 126-1. Conformity with chapter required; exceptions.

A. After the effective date of this chapter, within the corporate limits of Pocomoke City, no electric wiring for light, heat, power or any other purpose shall be installed in any building or structure or for any outdoor electrical displays or signs or in any yard or open air lot, nor shall any major alteration or extension of an existing electric wiring system be made, except in conformity with the provisions of this chapter, nor shall an existing electric wiring system be maintained within said corporate limits in a defective and unsafe condition within the meaning of the code provided for in this chapter.

B. After the effective date of this chapter, no electric utility company shall connect to any consumer's property within the corporate limits of Pocomoke City (unless the wiring thereof was done before the effective date of this chapter) until either the electric wiring has been inspected and approved pursuant to this chapter or the consumer has requested immediate connection and has warranted that he or she will furnish evidence of inspection and approval of such electric wiring within thirty (30) days.

C. Provided, however, that this chapter shall not apply to emergencies or to federal government buildings or to electric wiring and installations in railway cars or automotive equipment or the installation of equipment employed by a railway, electric or communication utility or a communication transportation system and located outdoors or in buildings used exclusively for that purpose.

§ 126-2. Permit and inspection required; emergencies; cut-in cards; exceptions.

A. Permit required. No person shall install any new or used electrical wires, conduits, machinery, apparatus or any kind of electrical equipment, fixtures, appliances or devices or perform work on electrical systems (except as hereinafter provided) without obtaining a permit and having such work or installation inspected as herein provided.

B. Issuance. A permit for any such work shall be obtained from the Pocomoke City Manager or City Housing Inspector before commencing such work. A fee may be charged for such permit. In the case of a bona fide emergency where danger to life and property is present, work may be commenced; provided, however, that a permit must be obtained within twenty-four (24) hours of the next time the City Hall is open for business.

C. Cut-in card required for connection. No light or power company, whether public or private, shall connect any current, light or power to any property without first obtaining a permanent or temporary cut-in card from the Middle Department Inspection Agency, Inc., except in case of an emergency when service may be restored by a licensed electrician prior to obtaining such cut-in card. No permanent or temporary cut-in cards shall be issued unless said cut-in cards are requested by a licensed electrician, except for work being done or which has been done by persons who are not required to be licensed under the provisions of this chapter.

D. Permit exception. A minor electrical installation shall not require a permit or inspection. "Minor electrical installation" shall mean a single electrical installation which is single phase, of fifty (50) amperes/two hundred forty (240) volts or less and installed in an existing structure.

§ 126-3. Licensing regulations; definitions; exceptions.

A. The provisions of §§ BR 2-207 through BR 2-217 of Subtitle II of Title 2 of the Building Regulations Article of the Code of Public Local Laws of Worcester County, Maryland (1995 Edition, as amended), are hereby adopted by reference thereto as the Pocomoke City local licensing regulations.

B. Definition of terms. Terms not otherwise defined in this chapter shall have the meanings set forth in § BR 2-202 of Subtitle II of Title 2 of the Building Regulations Article of the Code of Public Local Laws of Worcester County, Maryland.

C. Any person licensed in accordance with this section, including any person licensed by the State of Maryland as a master electrician, shall be qualified to provide electrical services within the corporate limits of Pocomoke City, Maryland, without obtaining an additional license from Pocomoke City, Maryland.

§ 126-4. National Electrical Code adopted.

Except as may be provided otherwise in this chapter, the current requirements of the National Electrical Code, as revised from time to time, being the regulations of the National Board of Fire

Underwriters for electric wiring and apparatus, shall be deemed to be the requirements imposed by this chapter, said National Electrical Code, as revised from time to time, being hereby adopted by reference as the Electrical Code of Pocomoke City and being herein incorporated in its entirety by reference[1].

§126-5. Acceptable appliances.

Except as may be provided otherwise in this chapter, the materials, fittings and devices enumerated in the List of Inspected Electrical Appliances of Underwriters' Laboratories, Inc., as revised from time to time, shall be acceptable as suitable for use under this chapter, said List of Inspected Electrical Appliances, as revised from time to time, being adopted by reference as the approved list of acceptable appliances of Pocomoke City and said list being incorporated herein in its entirety by reference[2].

§ 126-6. Inspections and tests; right of entry; correction of defects.

A. The Middle Department Inspection Agency, Inc., shall, during installation of an electric wiring system, make or cause inspections to be made to assure compliance with the National Electrical Code.

B. The Middle Department Inspection Agency, Inc., shall, within forty-eight (48) hours after notice of the completion of electrical wiring or request for inspection, make or cause to be made an inspection of such work and such tests as may be necessary to determine that it conforms to the provisions of the National Electrical Code and shall make or cause to be made a reinspection of an electric wiring installation whenever it deems it necessary in the interest of public safety.

C. For the purpose of making any inspection, test or report necessary for the proper administration and enforcement of this chapter, the City Manager or the City Housing Inspector or, at the written direction of either, the Middle Department Inspection Agency, Inc., shall have the authority, during reasonable hours, to enter in and upon any building or premises, and no person, firm or corporation shall prevent, obstruct or interfere with the performance of any inspection or test made pursuant hereto.

D. The City Manager or the City Housing Inspector shall have the power to stop electrical work when he or she is notified by the Middle Department Inspection Agency, Inc., that such work being installed does not conform to the National Electrical Code.

E. If any existing electric wiring system, upon inspection, is found to be defective and unsafe, upon notification by the City Manager or City Housing Inspector, the licensee or holder of the permit shall disconnect such system from service until it has been corrected, made to conform to the requirements of the National Electrical Code and approved by the Middle Department Inspection Agency, Inc.,

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1Editor's Note: A copy of the National Electrical Code is on file in the city offices.

2Editor's Note: A copy of the List of Inspected Electrical Appliances is on file in the city offices.

provided that, for safety reasons, in making any such disconnection, any wiring on the line side of the service disconnect mains is to be handled by utility company personnel only.

§ 126-7. Violations and penalties3.

Any person who shall perform any electrical work as described herein contrary to any of the provisions of this chapter shall be deemed guilty of a municipal infraction and subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time4.

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

4 Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 132

FIRE PREVENTION

§ 132-1. Title.
§ 132-2. Purpose.
§ 132-3. Construal of provision.
§ 132-4. Fire Marshal.
§ 132-5. Deputies; inspections and Reports; right of entry.
§ 132-6. Office of the Fire Marshal.
§ 132-7. Powers and duties of Fire Marshall.
§ 132-8. State regulations adopted by reference.
§ 132-9. Aboveground storage of Hazardous materials.
§ 132-10. Asphalt-tar pots and trailers.
§ 132-11. Permits; application; fee.
§ 132-12. Revocation of permit.
§ 132-13. Modification of regulations.
§ 132-14. Appeals.
§ 132-15. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 2-3-1969 as Ord. No. 212 (Ch. 16 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101.

Housing standards -- See Ch. 146.

§132-1. Title.

The rules and regulations hereby adopted shall constitute and shall hereafter be known as the "Fire Prevention Code of Pocomoke City" and may be cited and are hereinafter referred to as the "Fire Prevention Code."

§132-2. Purpose.

The purpose of this Fire Prevention Code is to establish standards and to make provisions and requirements for the maintenance, operation and use of land, buildings and other structures and the storage, handling, transportation and use of materials and equipment to prevent fires; to require all means of egress from premises, buildings and other structures to be maintained and operated in a safe manner; and to provide for the investigation of the cause, origin and circumstances of fires, all for the purpose of protecting the public health, safety and security of the people of Pocomoke City.

§132-3. Construal of provisions.

This Fire Prevention Code is hereby declared to be remedial and shall be liberally construed to secure the beneficial purposes intended hereby.

§ 132-4. Fire Marshal.

The Mayor shall appoint, subject to confirmation by the Council, one (1) person, who shall be that person designated as "Fire Marshal" by the County Commissioners of Worcester County, as provided by Section 149 of the Code of Public Local Laws of Worcester County, Maryland, as enacted by Chapter 642 of the Acts of the General Assembly of 19491, who shall be known as the "Chief of the Department of Fire Prevention of Pocomoke City." Such officer shall hold office for such a period of time as he or she shall be Fire Marshal of Worcester County and until his or her successor is duly appointed and confirmed.

§ 132-5. Deputies; inspections and reports; right of entry.

The Mayor may appoint, subject to confirmation by the Council, such deputies as in the Mayor's judgment may be necessary to make any and all of the examinations and inspections which are required to be made, or which may be made, in accordance with the provisions of this Fire Prevention Code. Such deputies shall report, in writing, the results of their examinations or inspections so made to the Fire Marshal. For the purpose of making such examinations or inspections, such deputies are hereby fully authorized and clothed with the same power and authority to enter upon or into and examine or inspect any premises, buildings or structures within the limits of Pocomoke City as given to the Fire Marshal and his or her authorized representatives by ~ 132-7 of this code.

§ 132-6. Office of the Fire Marshal.

A. It shall be the duty of the office of the Fire Marshal to enforce all laws and ordinances covering the following:

(1) The prevention of fires.

(2) The storage and use of explosives and flammables.

(3) The installation and maintenance of automatic and other private fire alarm systems and fire-extinguishing equipment.

(4) The maintenance and regulation of fire escapes.

(5) The means and adequacy of exit in case of fire from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters and all other places in which numbers of persons work, live or congregate, from time to time, for any purpose.

(6) The investigation of the cause, origin and circumstances of fires.

B. The office of the Fire Marshal shall have such other powers and perform such other duties as are set forth in other sections of this chapter and as may be conferred and imposed from time to time by law.

[1] Editor's Note: See ~ PS 1-301 of the Public Safety Article of the Code of Public Local Laws of Worcester County.

§ 132-7. Powers and duties of Fire Marshal.

A. The Fire Marshal may at all reasonable hours enter any building or premises within the city, except those actually occupied for private dwelling purposes by not more than two (2) families, for the purpose of making an inspection, which, under the provisions of this chapter, the Fire Marshal may deem necessary to be made.

B. The Fire Marshal may at any time investigate as to the origin or circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the city. The Fire Marshal shall have authority at all times of the day or night, in performance of the duties imposed by the provisions of this chapter, to enter upon and examine any building or premises where any fires or attempt to cause fires shall have occurred or which at the time may be burning, and also the power to enter upon at any time any building adjacent to that in which the fire or attempt to cause fire occurred, should the Fire Marshal deem it necessary in the proper discharge of his or her duties, and the Fire Marshal may, in the exercise of his or her discretion, take full control and custody of said buildings and premises and place such person in charge thereof as he or she may deem proper, until his or her examination and investigation shall be completed.

C. The Fire Marshal, in making said inspection or investigation, may, when in his or her judgment said proceedings are necessary, take the testimony on oath of all persons supposed to be cognizant of any facts or to have the means of knowledge in relation to the matter herein required to be examined and inquired into and to cause said testimony to be reduced to writing, and when, in his or her judgment, such examination discloses that the fire or explosion or attempt to cause a fire or explosion was of incendiary origin, the Fire Marshal may arrest the supposed incendiary or cause him or her to be arrested and charged with the crime and shall transmit a copy of the testimony so taken to the State's Attorney for Worcester County.

D. The Fire Marshal shall have power to subpoena witnesses
and to compel their attendance before him or her to testify in relation to any matter which is, by the provisions of this chapter, a subject of inquiry and investigation by the Fire Marshal and shall also have power to cause to be produced before him or her such papers as he or she may require in making such examination. The Fire Marshal is hereby authorized to administer oaths and affirmations to persons appearing as witnesses before him or her, and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punishable as such[2].

E. The Fire Marshal may deputize a member of any Fire Department duly organized and operating in the city, or other suitable person, who is approved by the Chief of the Fire Department and who is properly qualified through a training course of not less than three (3) days and who has successfully passed an examination upon the same, to conduct investigations and carry out such orders as may be prescribed by him or her to enforce and make effective the provisions of this

[2]Editor's Note: Original Section § 16-5E, pertaining to Fire Marshal's power to deputize, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

chapter[3].

§ 132-8. State regulations adopted by reference.

The Fire Prevention Code of the State of Maryland originally adopted in September 1964, and all amendments thereto, and the rules and regulations promulgated by the State Fire Prevention Commission pursuant to Article 38A of the Annotated Code of Maryland (1957 Edition), as amended by the latest editions of the National Fire Protection Association Standards and National Fire Protection Association Standard No. 304-L, Ordinance for Petroleum Wharves (1938 Edition), as amended, at least one (1) copy of which has been or is now filed in the office of the City Clerk, are hereby adopted and incorporated as fully as if set forth herein, and from the day on which this chapter shall take effect, the provisions thereof shall be controlling within the corporate limits of Pocomoke City, Maryland, insofar as the same may be applicable and not hereinafter modified or amended.

§ 132-9. Aboveground storage of hazardous materials.

Except as otherwise permitted in this chapter, the storage of compressed gases, explosives, ammunition, blasting agents, flammable and combustible liquids, hazardous chemicals, liquefied petroleum gases and magnesium above ground is prohibited within areas zoned B-1 under Chapter 230, Zoning, and any subsequent amendments thereto or reenactments thereof, provided that for existing storage or bunkers within such limits which are properly safeguarded and do not involve a hazard to other property, a permit shall be granted upon application pursuant to ~ 132-11.

§ 132-10. Asphalt-tar pots and trailers.

All asphalt-tar pots and trailers, when being prepared for use or in use, shall be no closer than twenty (20) feet from any building, shall have at least one (1) dry chemical fire extinguisher with a rating of 10BC, as defined by the National Board of Fire Underwriters, and shall have hinged covers that will close within three (3) inches of shut.

§ 132-11. Permits; application; fee[4].

Applications for permits required by this chapter shall be made on forms to be supplied by the City Clerk. A fee, as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[5], shall be paid to the City Clerk by the applicant at the time a permit is applied for. Applications for permits shall be forthwith transmitted by the City Clerk to the Fire Marshal, who shall, within three (3) working days following notification of readiness for inspection by the applicant, make an inspection of the premises involved and either approve or

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

[4]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[5]Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

disapprove the application. When an application has been approved by the Fire Marshal, the City Clerk shall issue the appropriate permit. Permits issued pursuant to this section shall be valid until revoked by the Fire Marshal. Permits issued pursuant to this section shall not be transferable and shall be continuously posted in a conspicuous place upon the premises for which issued.

§ 132-12. Revocation of permit.

The Fire Marshal may revoke any permit issued pursuant to ~ 132-11 hereof if subsequent to such issuance he or she shall determine that the holder thereof is no longer maintaining the premises for which the permit was issued in a condition conforming to the requirements of this Fire Prevention Code.

§ 132-13. Modification of regulations.

The Fire Marshal shall have power to modify any of the provisions of this Fire Prevention Code upon application in writing by the owner, manager or lessee of property within the corporate limits of the city where there are practical difficulties in the way of carrying out the strict letter thereof, provided that the spirit of the Fire Prevention Code shall be observed, public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Fire Marshal thereon shall be given to the applicant and a copy thereof given to the City Manager.

§ 132-14. Appeals.

Whenever the Fire Marshal disapproves an application, refuses to grant a permit applied for, revokes a permit previously issued or when it is claimed that the provisions of the Fire Prevention Code do not apply or that the true intent and meaning thereof have been misconstrued or wrongly interpreted, the applicant may appeal, in writing, specifying the grounds thereof, from the decision of the Fire Marshal to the Council within thirty (30) days from the date of the decision appealed.

§ 132-15. Violations and penalties[6].

Any person who shall violate any of the provisions of this chapter or fail to comply therewith or who shall violate or fail to comply with any order made hereunder or who shall fail to comply with such order as affirmed or modified by the Council or by a court of competent jurisdiction within the time fixed therefor shall, for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable as provided in the general penalty provisions in ~ 1-18 of this Code. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue. All persons guilty of such violation shall be required to correct or remedy such violations or defects within a reasonable time. Unless otherwise specified, each forty-eight (48) hours that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

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[6]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 133

SECURITY/FIRE/AMBULANCE SYSTEM ALARMS

ARTICLE I

General Provisions

§ 133-1. Statement of Policy.

It is herby declared to be the policy of the Mayor and City Council of Pocomoke City to cooperate in providing that an effective security/fire/ambulance alarm system is maintained on a 24-hour basis for the security and protection of life and property within the corporate limits of Pocomoke City. This policy is meant to encourage alarm users to maintain the operational reliability and proper use of alarm systems, and to reduce or eliminate false alarm dispatch requests. These sections regulate systems intended to summons police/fire/ambulance response by establishing requirements for registration and penalties for violation.

ARTICLE II

Terminology

§ 133-2. Definitions.

The following terms as used in this Chapter shall have the meanings indicated:

Act of Nature - means an unusual, extraordinary, sudden or unexpected manifestation of the forces of nature that cannot be prevented by reasonable human care, skill, or foresight.

Alarm signal - means the activation of an alarm system.

Alarm site - means the physical premises served by an alarm system; including each dwelling unit for which an alarm system is activated in a multifamily property.

Alarm system - means a burglary alarm system, robbery alarm system, automatic fire alarm system or ambulance response alarm system. "Alarm system" does not include telephone lines maintained and operated by public utilities under the regulation of the Public Service Commission over which such signals might be transmitted or alarm systems installed in motor vehicles, boats, or aircraft.

Alarm system contractor- means a person who installs, maintains, monitors, alters, or services alarm systems and does not include a person who only manufactures or sells alarm systems.

Alarm user - means any person in control of an alarm system within, on, or around any building, structure, facility, or site; or the owner or lessee of an alarm system.

Department - means the Pocomoke Police Department, Pocomoke Fire Department or Pocomoke Ambulance Company.

False alarm - means a request for immediate assistance from a law enforcement unit or fire department or ambulance company regardless of cause that is not in response to an actual emergency situation or threatened suggested criminal activity and includes: (1) a negligently or accidentally activated signal; (2) a signal that is activated as the result of faulty, malfunctioning, or improperly installed or maintained equipment; and (3) a signal that is purposely activated in a nonemergency situation. False alarm does not include: (1) a signal activated by unusually severe weather conditions or other causes beyond the control of the alarm user or alarm system contractor; or (2) a signal activated within 60 days after a new installation of an alarm system.

Signal- means the activation of an alarm system that requests a response by a law enforcement unit or a fire department or an ambulance company.

ARTICLE III

Exemptions

§ 133-3. Exemptions.

Any federal, state, county, or municipal government entity that owns or operates an alarm site within the city is exempt from the requirements of these sections.

ARTICLE IV

Registration Requirements

§ 133-4. Registration and Penalties.

(a) Requirement - An alarm user may not allow an alarm system to emit an alarm signal unless the alarm system is registered with the Pocomoke Police Department or Pocomoke Fire Department or Pocomoke Ambulance Company in accordance with this section.

(b) Initial Registration - An alarm user shall register an alarm system by completing and submitting to the appropriate Department an application form provided by the Department. The alarm user shall notify the Department within seven days of any change in the information supplied on the application form, including but not limited to the alarm user's address or phone number.

(c) Renewals - Every alarm user shall renew an alarm system registration annually between December 1 and December 31, regardless of when the initial registration was done.

(d) Penalty - The city will not impose a penalty for the first violation of subsection (a) of this section. A second or subsequent violation of subsection (a) is hereby declared to be a municipal infraction punishable by a fine of $100. Each day a violation continues is hereby deemed a separate offense.

ARTICLE V

Intentional False Alarms

§ 133-5. Nonemergency Activation of Signal

(a) A person may not intentionally activate a signal for a nonemergency situation.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $500 or imprisonment or both.

ARTICLE VI

Other False Alarms and Penalties

§ 133-6. Other False Alarms and Penalties

(a) The Police Department may issue a civil citation to an alarm user for the negligent or accidental activation of an alarm system as a result of faulty, malfunctioning, or improperly installed or maintained equipment or for a false alarm if the number of activations or false alarms to which the law enforcement unit or fire department or ambulance company responds exceeds: (1) three responses within a 30-day period; or (2) eight responses within a 12-month period

(b) An alarm system that is activated more than once within a 12-hour period when a premises with an alarm system is unoccupied and that is not in response to an actual emergency situation or threatened suggested criminal activity constitutes one false alarm if: (1) access to the building is provided to the alarm system contractor; and (2) an alarm system contractor or an employee of an alarm system contractor responds to the activated alarm system.

(c) A civil citation issued under this section shall assess a penalty of $30 for each negligent or accidental activation or false alarm.

ARTICLE VII

Defective Alarm System

§ 133-7. “Defective alarm system” defined

(a) In this section, “defective alarm system” means an alarm system that activates: (1) more than three false alarms within a 30-day period; or (2) eight or more false alarms within a 12-month period.

(b) (1) The Pocomoke Police Department or Pocomoke Fire Department or Pocomoke Ambulance Company that responds to false alarms from a defective alarm system shall provide written notice of the defective condition to the alarm user.

(2) The alarm user, within 30 days after receiving the notice, shall if qualified, inspect the alarm system or have the alarm system inspected by an alarm system contractor and within 15 days after the inspection, file with the Pocomoke Police Department or Pocomoke Fire Department or Pocomoke Ambulance Company that issued the notice a written report that contains the (i) result of the inspection; (ii) probable cause of the false alarms; and (iii) recommendations or action taken to eliminate the false alarms.

(c) An alarm user may not use a defective alarm system after receiving a written notice under subsection (b) of this section.

(d) A person who violates subsection (c) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

ARTICLE VIII

Audible Alarm Systems

§ 133-8. "Audible alarm system" defined

(a) In this section, "audible alarm system" means an alarm system that, when activated, emits an audible noise from an annunciator.

(b) An audible alarm system shall be equipped to automatically silence the annunciator within 30 minutes after activation and allow an accidental or negligent activation to be halted or reset.

(c) A person who violates this section is subject to a civil penalty of $100 for each violation.

ARTICLE IX

Inspection Provisions

§ 133-9. Inspections and Enforcement.

(a) The Chief of Police and the Fire Chief and the Ambulance Company Director or their designees, shall have the right to inspect any alarm system on the premises where it is installed, during reasonable times, and shall have the authority to enforce the provisions of this Chapter.

ARTICLE X

Unpaid Fines

§ 133-10. Unpaid Fines.

(a) In the event that any fine assessed hereunder remains unpaid for a period of 30 days, the Mayor and City Council of Pocomoke City may cause a lien in the amount of such unpaid fine(s) to be filed among the property tax records, to be collected in the same manner as taxes, with interest from the date of said filing. In addition, the Mayor and City Council may institute civil suit at any time to collect any such fines. No person shall convey or otherwise transfer the ownership of any property within Pocomoke City unless all such fines, interest and costs are paid prior thereto.

Chapter 135

FLOODPLAIN MANAGEMENT

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General Provisions

§ 135-1. Purpose; findings; federal and state programs.
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§ 135-3. Permit required; compliance with chapter.
§ 135-4. Disclaimer of liability.

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§ 135-7. Application; required plans and certificates; improvements.
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§ 135-9. Issuance of permit; conditions; dam safety; inspections; records.
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ARTICLE VIII
When Effective; Amendments

§ 135-35. When effective
§ 135-36. Amendments.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 3-16-1992 as Ord. No. 319. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101.
Grading and sediment control -- See Ch. 140.
Stormwater management -- See Ch. 198.
Subdivision of land -- See Ch. 205.
Zoning -- See Ch. 230.

ARTICLE I
General Provisions

§ 135-1. Purpose; findings; federal and state programs.

A. The purposes of this chapter are to:

(1) Protect human life and health.

(2) Minimize property damage.

(3) Encourage appropriate construction practices to minimize future damage.

(4) Protect individuals from unwittingly buying land subject to flood hazards.

(5) Protect water supply, sanitary sewage disposal and natural drainage.

B. The prevention of unwise development in areas subject to flooding will reduce financial burdens to the community and the state and will prevent future displacement and suffering of its residents. This protection is achieved through the review of all activities proposed within identified floodplains and by the issuance of permits for those activities that comply with the objectives of this chapter.

C. Floodplains are an important asset to the community. They perform vital natural functions, such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities and aesthetic quality. These functions are best served if floodplains are kept in their natural state. Wherever possible, the natural characteristics of floodplains and their associated wetlands and water bodies should be preserved and enhanced.

D. This chapter provides a unified, comprehensive approach to floodplain management which addresses these natural floodplain functions and the federal and state programs concerned with floodplain management. These programs are:

(1) The National Flood Insurance Program (44 CFR 59 to 79).

(2) The state's Waterway Construction Permit Program for Nontidal Floodplains.

(3) The state's Tidal and Nontidal Wetlands Permit Programs.

(4) The United States Army Corps of Engineers Section 10 and 404 Permit Programs.

(5) The state's Coastal Zone Management Program.

E. Decisions to alter floodplains, especially floodways and stream channels, should be the result of careful planning processes which evaluate resource conditions and human needs.

§ 135-2. Abrogation and greater restrictions.

This chapter supersedes any ordinance in effect in flood-prone areas. However, any other ordinance shall remain in full force to the extent that its provisions are more restrictive.

§ 135-3. Permit required; compliance with chapter.

Any person or entity proposing to do any development within the floodplain zone regulated by this chapter must first obtain a permit for that development from the local permitting agency and must comply with all provisions of this chapter.

§ 135-4. Disclaimer of liability.

The degree of flood protection provided by this chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Floods of greater magnitude may occur or flood heights may be increased by man-made or natural causes. This chapter does not imply that flooding will not occur outside of the delineated floodplain zone, nor that permitted development and land uses within the floodplain will be free of flooding and associated flood damage. This chapter does not create liability on the part of the community or any officer or employee thereof for any damage which may result from reliance on this chapter.

ARTICLE II
Terminology

§ 135-5. Definitions.

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

ACCESSORY STRUCTURE -- A detached structure on the same parcel of property as the principal structure, the use of which is incidental to the principal structure, e.g., a shed or detached garage.

BASE FLOOD -- The one-hundred-year-frequency flood event as indicated in the Flood Insurance Study, as amended, the elevation of which is used for regulatory purposes in this chapter.

BASEMENT -- An enclosed area which is below grade on all four (4) sides.

BREAKAWAY WALL -- A wall that is not part of the structural support of a building

and is intended to collapse under specific lateral loading forces without causing damage to the supporting foundation system of the building.

CERTIFICATE OF OCCUPANCY OR USE -- A permit to legally occupy or use a building for the intended purpose.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to buildings and other structures, dredging, fill, grading, paving, clearing, excavation, dumping, extraction or storage of equipment or materials. "Development" includes subdivision of land.

ELEVATION CERTIFICATE -- The form supplied by the Federal Emergency Management Agency (FEMA) to certify as-built elevations of structures above mean sea level [National Geodetic Vertical Datum (NGVD)].

FLOOD -- A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters or rapid unusual accumulation of runoff from any source.

FLOOD INSURANCE RATE MAP (FIRM) -- The map which depicts the minimum special flood hazard area to be regulated by this chapter (unless a Floodway Map is available).

FLOODPLAIN -- That land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood.

FLOODPROOFING -- Any combination of structural or nonstructural changes which reduce or eliminate flood damage to improved property.

FLOODPROOFING CERTIFICATE -- The form supplied by FEMA to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

FLOOD PROTECTION ELEVATION (FPE) -- The elevation of the base flood plus one (1) foot freeboard.

FLOODWAY -- The channel and adjacent land area required to discharge the waters of the one-hundred-year flood of a watercourse without increasing the water surface elevations more than a specified height.

FLOODWAY FRINGE -- That portion of the floodplain outside the floodway.

FLOODWAY MAP -- The map which depicts floodways and special flood hazard areas to be regulated by this chapter.

FREEBOARD -- An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence or other unpredictable effects.

HISTORIC STRUCTURE -- A structure listed individually on the National Register of Historic Places, the Maryland Inventory of Historic Properties, a local inventory of historic places certified by the Maryland Historic Trust or the Secretary of the Interior or

preliminarily determined as meeting the requirements for such listing by the Maryland Historic Trust or the Secretary of the Interior or determined as contributing to the historic significance of a historic district registered with the Secretary of the Interior.

LOCAL PERMITTING OFFICIAL -- The City Manager, Zoning Inspector or other designated city official.

LOWEST FLOOR -- The lowest floor of the lowest enclosed area, including basement. An unfinished enclosure constructed of flood-resistant materials used solely for parking of vehicles, storage or building access in an area other than a basement is not the "lowest floor," as long as it is supplied with water-equalizing vents.

MANUFACTURED HOME -- A transportable structure which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

NEW CONSTRUCTION -- A structure for which the start of construction commenced on or after the effective date of the adoption of a floodplain management ordinance, and includes any subsequent improvements.

NGVD -- National Geodetic Vertical Datum of 1929 elevation reference points set by the National Geodetic Survey based on mean sea level.

ONE-HUNDRED-YEAR-FREQUENCY FLOOD -- The base flood having a one (1) chance in a hundred (one-percent chance) of being equaled or exceeded in any year.

PERMANENT CONSTRUCTION -- Any structure occupying a site for more than one hundred eighty (180) days per year.

RECREATIONAL VEHICLE -- A vehicle built on a single chassis which is four hundred (400) square feet or less at the longest horizontal projection, self-propelled or towable, and designed primarily for temporary living while traveling or camping.

START OF CONSTRUCTION -- The date of issue of the building permit for any development, including new construction and substantial improvements, provided that the actual start of the construction or improvement was within one hundred eighty (180) days of permit issuance. The actual start of construction is the placement of slab or footings, piles, columns or actual placement of a manufactured home. For substantial improvement, the "start of construction" is the first alteration of any structural part of the building.

STRUCTURE -- A walled and roofed building, including, but not limited to, manufactured homes, gas and liquid storage tanks, garages, barns and sheds.

SUBSTANTIAL DAMAGE -- Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT -- Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure (less land value) either before the improvement or repair is started or, if the structure has incurred substantial damage and been restored, before the damage occurred.

"Substantial improvement" occurs when the first alteration of any wall, ceiling, floor or other structural part of the building commences. The minimum repairs needed to correct previously identified violations of local health, safety or sanitary codes and alterations to historic structures which do not preclude their continued designation as historic structures are not considered "substantial improvements."

TEMPORARY STRUCTURE -- Any structure completely removed within one hundred eighty (180) days from issuance of the permit.

VARIANCE -- The grant of relief from a term or terms of this chapter.

WETLAND -- Any land which is:

A. Considered private wetland or state wetland pursuant to Title 9, Wetlands and Riparian Rights, of the Natural Resources Article of the Annotated Code of Maryland; or

B. Defined as wetland under the procedures described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands by the Federal Interagency Committee for Wetland Delineation, 1989, as amended.

ARTICLE III
Permit Procedures; Violations and Penalties

§ 135-6. Permit required; federal and state permits.

A permit is required for all development in any floodplain zone. It shall be granted only after all necessary permit applications are submitted to federal and state agencies. A permit issued by the local permitting official under this chapter is not valid until all necessary permits for development are obtained. Receipt of federal or state permits does not exempt development from the provisions of this chapter.

§ 135-7. Application; required plans and certificates; improvements.

A. Applications for a building permit shall contain, at a minimum, the following information:

(1) Name, address and phone number of applicant (owner or agent of owner).

(2) Name, address and phone number of owner, if different.

(3) Name, address and phone number of contractor.

(4) Legal description of site location.

(5) Proposed uses for the site.

(6) Type, dimensions and estimated cost of development proposed.

(7) Site characteristics and improvements.

(8) Other information deemed appropriate by the local permitting official.

B. All permit applications must have a site plan drawn to scale which shows:

(1) Dimensions of the site.

(2) Size and location of existing and proposed structures or alterations.

(3) Setbacks.

(4) Elevation contours in mean sea level (NGVD).

(5) Delineation of the one-hundred-year flood elevation and boundary.

(6) Proposed elevation of the lowest floor and method of elevation, if applicable.

C. The local permitting official may require plans for tree maintenance, stormwater management, revegetation, establishment of vegetated buffers and final grading as part of the permit application process.

D. All applicants shall agree, in writing, to provide an elevation certificate completed by a registered professional engineer or surveyor to certify the as-built lowest floor of a structure which must be elevated to or above the flood protection elevation.

E. An elevation certificate must be submitted before a certificate of occupancy or use may be issued. Work undertaken prior to submission of the certification is at the applicant's risk. For enclosed areas below the flood protection elevation, a nonconversion agreement may be required, which includes an agreement to install water-equalizing vents as specified in ~ 135-25 of this chapter.

F. If an improvement to an existing structure is proposed, adequate information on the cost of the improvement and the market value of the structure before the improvement must be supplied to the local permitting official to allow a determination of substantial improvement. The local permitting official may use tax assessment records to determine substantial improvement. In floodway and coastal high hazard areas, permits shall be tracked by property location to determine if the cumulative value of improvements constitutes substantial improvement of a structure.

§ 135-8. Subdivision proposals.

A. In addition to the information required in § 135-7, an applicant for subdivision in the nontidal floodplain zone shall submit a plan to demonstrate that a building site for each lot is outside of the one-hundred-year floodplain. The local permitting official shall assure that a plan for the perpetual protection of the floodplain areas in their natural state as required under § 135-20E is included.

B. Subdivision plans for the tidal floodplain zone shall be reviewed to assure that the

provisions of § 135-20E are met, especially with regard to avoiding wetlands, low areas and existing forest cover.

C. In all floodplain subdivisions, plans for maintenance of forest cover, flood protection setbacks, revegetation, accommodation of stormwater runoff, prevention of erosion and other plans required by the local permitting official must be submitted with subdivision proposals. The plans shall be evaluated as a whole to achieve maximum preservation of the natural and beneficial floodplain functions, desirable resources and characteristics of each site. The plan for utility ingress, stormwater drainage structures, road access and other rights-of-way shall be evaluated in light of the site characteristics.

§ 135-9. Issuance of permit; conditions; dam safety; inspections; records.

A. Considerations. Prior to issuance of a permit, the local permitting official shall determine the location of the project relative to floodways, floodplains or V Zones and shall note on the permit the proper elevation to which the lowest floor of proposed structures must be elevated. In approximate floodplains where an elevation is not available, the applicant shall be required to obtain such elevation. The applicant must agree to secure all other required permits, an elevation certificate, floodproofing certificate, engineering analysis or other required verifications deemed appropriate by the local permitting official.

B. Permits shall be granted by the local permitting official only after determining that the proposed development will be in complete conformance with the requirements of this chapter and all other applicable local codes and ordinances. All other necessary permits or approvals must be applied for or granted. Permits are valid only after all other necessary permits are granted.

C. Dam safety. Caution should be exercised when approving development downstream of existing or proposed dams. The condition of the dam, as well as the design criteria, hazard class and the danger reach, should be investigated to avoid increasing potential hazards. Dams must meet design criteria based on the potential impacts downstream of the dam. Downstream development within the dam break flood wave shall be denied unless the dam meets the design standards for a high-hazard dam.

D. After issuance and during construction. After issuance of a permit, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written approval of the local permitting official. A copy of the permit or other verification must be displayed at the construction site during construction activity.

E. Work on the permitted activity shall begin within one hundred eighty (180) days of the issuance of the permit or the permit shall expire, unless a written extension is granted by the local permitting official. Work shall be completed within one (1) year of the date of the permit unless a greater time is specified in the permit or a written extension is granted.

F. During construction, the local permitting official or an authorized representative shall inspect the site to determine that the work is in compliance with the permit.

Any work found to be noncompliant must be corrected before any additional work is undertaken.

G. Record of permits. A record of all floodplain permits shall be maintained and be available upon request by the Federal Emergency Management Agency or its authorized agent (Water Resources Administration) during periodic assessments of this community's participation in the National Flood Insurance Program. All documents needed to support any permit action, such as elevation certificates, map amendments or revisions, and variance actions shall be available for review during these assessments.

§ 135-10. Conditioned permit for accessory structures.

A. A conditioned permit may be issued at the discretion of the local permitting official when the exemption of three hundred (300) square feet is exceeded for accessory structures up to a total size of six hundred (600) square feet. In order to qualify, the structure's use must be incidental to the primary structure, and it can be used only for limited storage and parking of vehicles. The provisions of ~ 135-29 must be met.

B. A conditioned permit is subject to the applicant's completion of a nonconversion agreement stating that the use of the accessory structure may not change from that permitted and that it must be equipped with the proper water-equalizing vents. A statement of the greater flood risk and possibly higher flood insurance premiums must be included. In addition, a recordation on the deed or memorandum of land restriction must be made as described in ~ 135-33, stating that the permitted structure may not be used for human habitation without first complying with the construction requirements of this chapter.

§ 135-11. Application fee.

A fee may be charged at the time of application.

§ 135-12. Violations and penalties.

A. A violation of the provisions of this chapter shall be a municipal infraction, subject to a fine as provided in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[1]. A fine does not excuse the violation. Each day a violation continues is a separate offense. The violation must be corrected prior to any further work progressing on the project[2].

B. The Federal Insurance Administrator and the Water Resources Administration must be notified by the local permitting official within thirty (30) days after issuance of the citation of any violation which requires a fine or court appearance.

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[1] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

[2] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

New or renewal federal flood insurance may be denied any structure remaining in violation of this chapter. The violation may also violate state law, may be subject to separate action and may incur a separate penalty.

ARTICLE IV
Establishment of Floodplain Zones

§ 135-13. Regulatory floodplain.

The regulatory floodplain shall be those areas of the City of Pocomoke City which are subject to the one-hundred-year flood, delineated on the most recent revision of the community's Floodway Map and Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA). The Floodway Map and the FIS, if available for the community, must be used. Areas along nontidal streams that do not have FEMA delineations as described above are subject to regulation by this chapter and the state.

§ 135-14. Types of floodplain zones.

A community may have one (1) or more of the following floodplain zones:

A. Nontidal floodplains, which consist of the floodway and the floodway fringe. Nontidal floodplains may have detailed engineering study data, profiles and water surface elevations or may have approximate delineations only.

B. Tidal floodplains, which consist of areas subject to coastal or tidal flooding by the one-hundred-year flood. These areas are flooded due to high tides, hurricanes, tropical storms and steady on-shore winds.

C. Coastal high-hazard areas, which consist of areas subject to coastal or tidal flooding, with the addition of high-velocity water and wind action. These areas are designated as V Zones on the Flood Insurance Rate Map.

§ 135-15. Floodplain boundaries.

A. Floodplain zone determination. The local permitting official will determine the floodplain zone in which the development activity is proposed using the Floodway Map and FIS, if available, or, if not, by using the FIRM. Without prior approval from FEMA, the community shall use no other data to enforce floodplain management regulations. Where map boundaries and elevations disagree, elevations prevail, with no approval from FEMA required.

B. Approximate floodplain determination. For development proposed in the approximate floodplain (no water surface elevations or floodway data provided), the applicant must use the best available information to determine the elevation of the one-hundred-year flood and the extent of the floodway and must delineate these on the site plan submitted for approval. For new subdivisions, the applicant must have the one-hundred-year flood elevations certified by a registered professional engineer based on hydrologic and hydraulic analyses, which include a floodway analysis. For individual lot development, if no data is available, the point-on-the-boundary method may be used. In this method, the

distance is scaled from a reference point at the site to the edge of the one-hundred-year floodplain boundary indicated on the FIRM. An elevation of the one-hundred-year flood is determined at that point by survey.

C. Unmapped streams. In cases in which development is proposed in the vicinity of unmapped streams which have no delineated one-hundred-year floodplain, the fifty-foot flood protection setback from the banks of the stream described in ~ 135-20D may be used. State permits may be required, and applicants are advised to seek a determination from the state.

ARTICLE V
Development Regulations in Floodplain Zones

§ 135-16. Applicability; structures in more than one zone; effect of other regulations.

In order to prevent excessive flood damage and to allow for the protection of the natural and beneficial floodplain functions, the provisions contained in this Article shall apply to all development, new construction and substantial improvements to existing structures in all floodplain zones. If a structure is in more than one (1) zone, the more stringent provisions shall apply to the entire structure. The specific requirements contained in Article VI also apply to development described in this Article. Any approved development shall comply with all other zoning, environmental, water quality and sanitary regulations, as well as applicable state and federal requirements.

§ 135-17. Watercourses.

In all floodplain zones, any development which proposes to alter a watercourse must obtain a variance. All conditions for encroachment in the floodway must be met and adverse impacts to aquatic resources must be minimized. Adjacent communities and property owners, FEMA and the Maryland Water Resources Administration must be notified by the applicant before any modification may occur to the watercourse. Any activity falling within the one-hundred-year nontidal floodplain may require a waterway construction permit from the Water Resources Administration.

§ 135-18. Wetlands.

Encroachment by development into wetlands is not allowed without state and federal permits. It is state and federal policy that disturbance of wetlands shall be avoided. The applicant must demonstrate that no alternatives exist and the encroachment is the minimum necessary. Mitigation may be required by the appropriate regulatory authorities.

§ 135-19. Stormwater management; sediment and erosion control.

Any land disturbance permitted in the floodplain must have a stormwater management and sediment and erosion control plan as required by state and local regulations. The plan must include design of land contours that will not increase surface water runoff onto neighboring properties. Ground cover must be established immediately after disturbance, and a plan for permanent plantings, including trees, should provide for adequate vegetative cover within the

flood protection setback from watercourses to prevent erosion.

§ 135-20. Nontidal and tidal floodplain zones.

A. Development may not occur in the floodplain where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the floodplain and that encroachments onto the floodplain are minimized.

B. Elevation requirements for new and substantially improved structures.

(1) Residential structures. All new or substantially improved residential structures, including manufactured homes, shall have the lowest floor elevated to or above the flood protection elevation. Basements are not permitted. In nontidal floodplains, horizontal expansions which increase the footprint and that are less than substantial shall also have the lowest floor elevated to or above the flood protection elevation. The elevation of the lowest floor shall be certified by a registered surveyor or professional engineer on the elevation certificate, after the lowest floor is in place. Enclosures below the flood protection elevation must be constructed with water-equalizing vents to meet the specifications of ~ 135-25. Improvements in tidal floodplains which are less than substantial shall be constructed to minimize damage during flooding or shall be elevated to the greatest extent possible.

(2) Nonresidential structures.

(a) All new or substantially improved nonresidential structures shall either be elevated as set forth above for residential structures or shall be floodproofed. Horizontal expansions in the nontidal floodplain which increase the footprint and that are less than substantial shall also have the lowest floor elevated to or above the flood protection elevation. State regulations do not allow basements or the floodproofing option for new nonresidential structures in nontidal floodplains.

(b) Floodproofing designs must ensure that areas below the flood protection elevation are watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If the floodproofing option is chosen, a floodproofing certificate must be completed by a registered professional engineer or architect who shall review the design and specifications and certify that the nonresidential structure will meet this standard.

C. Fill.

(1) The placement of more than six hundred (600) cubic yards of fill per parcel or lot in the floodplain is prohibited except by variance. Elevating buildings by other methods must be considered unless six hundred (600)

cubic yards or less of fill is required. An applicant shall demonstrate that fill is the only alternative to raising the building to at least the flood protection elevation and that the amount of fill used will not affect the flood-storage capacity or increase flooding onto neighboring properties.

(2) In the event that buildings on adjacent properties are known or determined to be subject to flooding under current conditions, the local permitting official may require submission of hydrologic and hydraulic analyses to adequately demonstrate the effects of the proposed fill. The conditions described in ~ 135-31 must be met whenever fill is used.

D. Flood protection setback requirement.

(1) A minimum one-hundred-foot flood protection setback shall be maintained from the edge of the banks of any watercourse delineated as having a floodplain on the Floodway Map or FIRM, except where the setback may extend beyond the floodplain. To prevent erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the watercourse and conditions for replanting are suitable, high priority shall be given to planting trees in the setback area to stabilize banks and to enhance aquatic resources.

(2) A minimum fifty-foot flood protection setback shall be maintained from the top of the bank of any stream which has no designated floodplain. Natural vegetation shall be maintained and, if needed, trees planted.

(3) For activities within the Chesapeake Bay Critical Area, the applicant must obtain a critical area buffer exemption in order to exempt proposed development from the flood protection setback requirement. However, new construction is prohibited within the reach of mean high tide.

(4) The local permitting official may consider a variance if the applicant demonstrates that it is impossible to allow any development without encroachment into the flood protection setback area. The variance shall be the minimum necessary and shall be made only after due consideration is given to varying other siting standards, such as side, front and back lot line setbacks. Necessary public works and temporary construction may be exempted from this section.

E. Subdivision requirements.

(1) To achieve long-term flood damage avoidance and protection of the natural and beneficial floodplain functions, creation of any new flood-prone building sites shall not be permitted in any new subdivisions regardless of size, number of lots and location, except in tidal floodplains.

(2) Within new subdivisions, the floodplain areas and their natural vegetation shall be preserved and dedicated to natural buffer areas, open space, recreation and similar compatible uses by deed restriction, restrictive covenants or donation to a land trust. At a minimum, the area preserved shall include the flood protection setback area and, to the greatest extent possible, other floodplain areas. Steep slopes and forested areas adjacent

to watercourses shall also be given high priority for preservation.

(3) All other provisions of this Article and Article VI apply to subdivisions. The local permitting official may specify additional provisions in the plan review.

F. Nontidal floodplains. In new subdivisions in nontidal floodplains, each lot platted must have a suitable building site outside the floodplain. Consideration must be given to clustering development out of the floodplain. The flood protection setback requirement of Subsection D shall be met. An access road at or above the elevation of the one-hundred-year flood shall be provided.

G. Tidal floodplains. New subdivisions in tidal floodplains shall be designed to develop the highest natural land available before floodplain lots are platted. The flood protection setback requirement of Subsection D shall be met. High priority should be given to clustering development out of the floodplain while preserving the low-lying land and forested areas in natural vegetation.

§ 135-21. Floodways.

A. Floodways shall be preserved to carry the discharge of the one-hundred-year flood. Floodways present increased risks to human life and property because of their relatively faster and deeper flowing waters. Fill shall not be permitted. New structures shall not be permitted. New development shall not be permitted in the floodway where alternatives exist elsewhere or if any increase in water surface elevations will result from the one-hundred-year flood.

B. Any development in the floodway which may result in any increase in water surface elevations or change to the floodway must be submitted to FEMA for a conditional letter of map revision. Hydrologic and hydraulic analyses based on existing floodway models and performed in accordance with standard engineering practices and certified by a registered professional engineer must be submitted. Failure to receive this letter shall be grounds for denial of the permit.

C. An alternative analysis must be prepared for any development in the floodway before a permit may be issued. The provisions of ~ 135-20 above, as well as this section, apply to floodways.

D. Alternative analysis requirement. Before a permit may be issued, an applicant shall submit an alternative analysis which demonstrates that:

(1) No reasonable alternatives exist outside the floodway.

(2) Encroachment in the floodway is the minimum necessary.

(3) The development will withstand the one-hundred-year flood without significant damage.

(4) The development will not increase downstream or upstream flooding or erosion.

E. Existing structures. Existing structures in the floodway shall be substantially improved only by variance and if they can be brought into conformance with this chapter without increasing the footprint. Minor additions (less than substantial) must be elevated to the flood protection elevation on pilings or columns. In the event of substantial damage or replacement, the applicant shall submit an alternative analysis to determine if the structure can be relocated to a less hazardous site. Where replacement structures cannot be relocated, they shall be limited to the footprint of the previous structure and must comply with the elevation requirements of ~ 135-20B of this chapter. Permits for incremental improvements and additions shall be tracked by the local permitting official, and if cumulative improvements constitute substantial improvement, no further permits may be issued unless the structure conforms to the provisions of this chapter.

F. Maintenance of natural channel. The natural watercourse shall be maintained for protection of aquatic resources. A variance is required for alteration of watercourses. Any variance issued must assure that the conditions for encroachment in the floodway are met, adverse impacts to aquatic resources are minimized and the public good outweighs the adverse impacts. The provisions of this Article V pertaining to altering a watercourse must be met[3].

G. Obstructions. Structures or fill which may impede, retard or change the direction of the flow of floodwaters or any materials that may be carried downstream to cause damage shall not be placed in the floodway. Fences, except two-wire fences, shall not be placed in the floodway.

§ 135-22. Coastal high hazard area (V Zone).

A. New development shall not be permitted in the coastal high hazard area where the action of wind and waves, in addition to tidal flooding, is a factor unless the applicant demonstrates that:

(1) No reasonable alternative exists outside the coastal high hazard area.

(2) The encroachment into the coastal high hazard area is the minimum necessary.

(3) The development will withstand the one-hundred-year wind and water loads without damage.

(4) The development will not create an additional hazard to existing structures.

(5) Any natural dune system will not be disturbed.

B. New and substantially improved structures.

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[3]Editor's Note: See § 135-17, Watercourses.

(1) All new or substantially improved structures shall be elevated on adequately anchored pilings or columns to resist flotation, collapse and lateral movement due to the effects of the one-hundred-year water loads and wind loads acting simultaneously on all building components. Water-loading values shall be those associated with the base flood, and wind-loading values shall be those required by local building standards. The bottom of the lowest horizontal structural member supporting the lowest floor shall be elevated to or above the flood protection elevation. Building designs and elevations must be certified by a registered professional engineer or architect knowledgeable in such designs, who shall certify that the building has been designed to withstand the water and wind loads and to be anchored properly. The use of slabs or other at-grade foundation systems is prohibited.

(2) The space below the flood protection elevation shall be free of obstruction or may be enclosed with open wood lattice, insect screening or breakaway walls. Glass walls are not to be considered breakaway walls. Breakaway walls shall be designed to collapse under a wind and water load less than would occur during the one-hundred-year flood and have a designed safe loading resistance of not less than ten (10) pounds and no more than twenty (20) pounds per square foot. Enclosed areas below the flood protection elevation shall be used solely for the parking of vehicles, limited storage and building access. If such areas are enclosed, a nonconversion agreement, described in ~ 135-10, must be signed by the applicant.

C. Manufactured homes and recreational vehicles. Manufactured homes are not permitted in the coastal high hazard area. Recreational vehicles must meet the requirements of § 135-30.)

D. Fill and excavation.

(1) The use of fill for the structural support of buildings is prohibited.

(2) Excavation under existing structures or excavation within any enclosed space is prohibited.

(3) Earth or sand removed for the proper placement of pilings or columns shall be replaced.

(4) Excavation to create a basement is prohibited.

E. Location of structures.

(1) New construction within the reach of mean high tide is prohibited.

(2) New construction within the one-hundred-foot flood protection setback as described in § 135-20D is prohibited.

(3) Alteration of the dune system is prohibited.

F. Existing structures. Existing structures located in the V Zone shall not be

substantially improved or expanded vertically or horizontally unless the entire foundation system is certified by a professional engineer or architect as capable of supporting the existing building and the proposed improvement during the one-hundred-year storm as specified in Subsection B. Permits for incremental improvements shall be tracked, and when cumulative improvements constitute substantial improvement, the entire building must comply with Subsection B of this section.

ARTICLE VI
Specific Development Requirements

§ 135-23. Applicability.

In addition to the requirements outlined in Article V, the specific requirements contained in this Article must be applied.

§ 135-24. Placement of buildings and materials.

In general, buildings and accessory structures should be located entirely out of the floodplain, out of the flood protection setback or on land that is least susceptible to flooding. All structures permitted in the floodplain shall be oriented so as to offer the least resistance to the flow of floodwaters. Materials which are buoyant, flammable, explosive, hazardous to health or which at times of flooding may be injurious to human, animal or plant life shall not be stored below the flood protection elevation.

§ 135-25. Enclosures below lowest floor.

A. Buildings which have been elevated and have fully enclosed areas below the flood protection elevation, as well as garages and accessory structures which are not elevated (§ 135-29), shall be constructed with water-equalizing vents which meet or exceed the following standards:

(1) A minimum of two (2) openings on different walls having a total net area of not less than one (1) square inch shall be required for every square foot of enclosed area subject to flooding.

(2) The bottom of all openings shall be no higher than one (1) foot above grade.

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters to equalize hydrostatic forces on the walls.

B. Fully enclosed areas below the flood protection elevation shall be used solely for parking of vehicles, access to the building or storage. If such areas are enclosed, a nonconversion agreement as described in § 135-10 must be signed by the applicant.

C. In coastal high hazard areas, enclosures below the flood protection elevation shall

comply with the provisions of § 135-22B of this chapter.

§ 135-26. Manufactured homes and manufactured home parks.

A. New manufactured homes and manufactured home parks are prohibited in the coastal high hazard area and in the floodway. In other floodplain zones, all new, replacement or substantially improved manufactured homes, whether in a manufactured home park or not, shall comply with § 135-20B of this chapter.

B. Methods of anchoring shall include use of over-the-top and frame ties to ground anchors. Pilings or columns shall be used to maintain storage capacity of the floodplain. Concrete block support pilings must be reinforced by placing reinforcing bars inside and extending them into the footing, filling the hollows with cement and using mortar to cement the blocks together. FEMA Publication 85, Manufactured Home Installation in Flood Hazard Areas, should be consulted for specific recommendations.

C. Manufactured homes repaired or replaced because of substantial damage due to flooding or other causes are considered to be new structures and must fully comply with § 135-20B.

D. Owners of manufactured home parks or subdivisions that are partially or fully within the floodplain must file an evacuation plan with the local emergency management agency. In nontidal floodplains, a flood-free access road shall be provided in all new manufactured home parks and subdivisions.

§ 135-27. Anchoring.

All structures shall be firmly anchored in accordance with acceptable engineering practices to prevent flotation, collapse and lateral movement during flooding. All air ducts, large pipes and storage tanks located below the flood protection elevation shall be firmly anchored to resist flotation.

§ 135-28. Utilities.

A. Electric. All electric utilities to the building side of the meter, both interior and exterior to the building, are regulated by this chapter. Distribution panel boxes must be at least two (2) feet above the flood protection elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators and distribution systems, must be installed at or above the flood protection elevation.

B. Plumbing. Toilets, sinks, showers, water heaters, pressure tanks, furnaces and other permanent plumbing installations must be installed at or above the flood protection elevation.

C. Gas. Gas meters, distribution lines and gas appliances must be installed at or above the flood protection elevation.

D. Water supply and sanitary facilities. Water supply distribution and sanitary disposal collection systems must be designed to minimize or eliminate the infiltration of floodwaters into the systems or discharges from the systems into floodwaters and shall be located and constructed so as to minimize or eliminate flood damage. On-site sewage disposal systems shall meet these same standards.

§ 135-29. Accessory structures and garages.

A. Where feasible, accessory structures and garages should be located out of the floodplain or elevated to or above the flood protection elevation. When these measures are not feasible the following apply:

(1) The floor of the structure must be at or above grade.

(2) The structure must be located, oriented and constructed so as to minimize flood damage.

(3) The structure must be firmly anchored to prevent flotation.

B. Attached garages. A garage attached to the main structure shall be elevated to the greatest extent possible but may be permitted as an exemption to the strict elevation requirement if it is used solely for parking of vehicles, storage or building access and is no more than six hundred (600) square feet in area. Attached garages must meet the venting requirements of § 135-25, have all interior walls, ceilings and floors below the flood protection elevation unfinished and have no machinery or electric devices or appliances located below the flood protection elevation. A nonconversion agreement as described in § 135-10 must be signed by the property owner stating that the garage may never be used for human habitation without first becoming fully compliant with this chapter.

C. Detached garages and accessory structures. An accessory structure or detached garage may be permitted as an exemption to the elevation requirement if it is less than three hundred (300) square feet, is used solely for parking of vehicles and limited storage, meets the venting requirements of § 135-25, has all interior wall, ceiling and floor elements below the flood protection elevation unfinished and has no machinery, electric devices or appliances located below the flood protection elevation. A nonconversion agreement must be signed by the property owner.

D. An accessory structure or a detached garage between three hundred (300) square feet and six hundred (600) square feet may be permitted below the flood protection elevation only by a conditioned permit described in § 135-10.

E. An accessory structure or garage larger than six hundred (600) square feet in area must be elevated properly or be able to meet all applicable requirements under the variance procedure in § 135-32 of this chapter.

§ 135-30. Recreational vehicles.

A. Recreational vehicles located within the floodplain may be exempted from the elevation and anchoring requirements, provided that they are:

(1) Located on the site less than one hundred eighty (180) consecutive days per year.

(2) Fully licensed and ready for highway use.

(3) Properly permitted.

B. A recreational vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site only by quick-disconnect-type utilities and securing devices and has no permanently attached additions. If it cannot meet all of these criteria, the recreational vehicle must be considered a manufactured home and is subject to the elevation and construction standards of this chapter.

§ 135-31. Fill.

A. Fill is discouraged because storage capacity is removed from floodplains. Other methods of elevating structures should be considered first and fill used only if other methods are not feasible. Fill may not be placed in the floodway. Fill may not be used for structural support in coastal high hazard areas. Fill may not be placed in tidal or nontidal wetlands without the required state and federal permits.

B. Fill must consist of soil and rock materials only. Dredged material may be used as fill only upon certification of suitability by a registered professional geotechnical engineer. Landfills, rubble fills, dumps and sanitary fills are not permitted in the floodplain.

C. Fill used to support structures must be compacted to ninety-five percent (95%) of the maximum density obtainable by the Standard Proctor Test (ASTM Standard D-698) and its suitability to support structures certified by a registered professional engineer.

D. Fill slopes shall be no greater than two horizontal to one vertical (2:1). Flatter s lopes may be required where velocities may result in erosion.

E. The use of fill shall not increase flooding or cause drainage problems on neighboring properties.

ARTICLE VII
Variances

§ 135-32. Appeal Board; procedure.

A. The Appeal Board shall hear and decide appeals and requests for variances from the requirements of this chapter. Conditions may be attached to the variance action, and variance actions must be consistent with sound floodplain management. Variances may not be issued except as specified below, nor shall variances be issued for any encroachment in floodways if any increase in the

one-hundred-year flood levels will result.

B. Variances shall only be issued upon:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant a variance would result in exceptional hardship (other than economic) to the applicant.

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud or victimization of the public or conflict with existing local and state laws or ordinances.

C. The variance action shall be the minimum necessary, considering the flood hazard, to afford relief. In considering a variance action, comments from the State Coordinating Office of the Water Resources Administration must be taken into account and maintained with the permit file.

§ 135-33. Conditions; records.

A. Variances may not be granted for the following:

(1) Placement of fill or any development in the floodway if any increase in flood levels would result.

(2) Placement of fill in the coastal high hazard area for structural support.

(3) New buildings in the floodway.

B. For any variance issued, a letter shall be sent to the applicant indicating the terms and conditions of the variance, the increased risk to life and property in granting the variance and the increased premium rates for national flood insurance coverage. The applicant shall be notified, in writing, of the requirement for recordation of these conditions on the deed or memorandum of land restriction prior to obtaining a permit and of the need to secure all necessary permits as conditions for granting a variance. The memorandum is described in §§ 3-102 and 3-103 of the Real Property Article of the Annotated Code of Maryland.

C. The local permitting official shall maintain a record of all variance actions and the justification for their issuance, as well as all correspondence. This record must be submitted as a part of the biennial report to FEMA and be available for periodic review. The number of variance actions should be kept to a minimum.

§ 135-34. Functionally dependent uses.

Variances may be issued for new construction and substantial improvements for the conduct of a functionally dependent use. A functionally dependent use cannot perform its intended purpose unless it is located or carried out in close proximity to water. It includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and

shipbuilding and ship repair facilities but does not include long-term storage or related manufacturing facilities. The variance may be issued only upon sufficient proof of the functional dependence. The provisions of ~~ 135-32 and 135-33 must be met, and the structure must be protected by methods that minimize flood damage up to the flood protection elevation and must create no additional threats to public safety. This may require methods of wet floodproofing which allow the structure to flood without significant damage. Methods of floodproofing must not require human intervention.

ARTICLE VIII
When Effective; Amendments

§ 135-35. When effective.

This chapter shall take effect upon its approval by the Mayor.

§ 135-36. Amendments.

This chapter shall be amended as required by the Federal Emergency Management Agency in 44 CFR. All subsequent amendments to this chapter are subject to approval of the Federal Emergency Management Agency and the Maryland Department of Natural Resources.

Chapter 137

FOREST CONSERVATION

§ 137-1. Adoption of county law.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-8-1996 as part of Ord. No. 336. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land -- See Ch. 205.

Zoning -- See Ch. 230.

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§ 137-1. Adoption of county law.

The Worcester County Forest Conservation Law, Code of Public Local Laws of Worcester County, Maryland, Natural Resources Article, §§ NR 1-401 through NR 1-421, is hereby adopted as the Pocomoke City Forest Conservation Law[1].

1Editor's Note: The text of the County Forest Conservation Law is included in Ch. A235.

Chapter 140

GRADING AND SEDIMENT CONTROL

§ 140-1. Grading permit required; exceptions.
§ 140-2. Conditions; denial of permit.
§ 140-3. Permit application.
§ 140-4. Sediment Control Inspector; compliance with county and state requirements.
§ 140-5. Notice to comply; permit suspension.
§ 140-6. Permit cancellation.
§ 140-7. Cash deposit or bond.
§ 140-8. Duration of permit; extension.
§ 140-9. Inspections.
§ 140-10. Permit fee.
§ 140-11. Violations and penalties; injunction; notice of violation.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 4-17-1972 as Ord. No. 226, effective 5-1-1972 (Ch. 27 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101.
Floodplain management -- See Ch. 135.
Stormwater management -- See Ch. 198.
Subdivision of land -- See Ch. 205.

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§ 140-1. Grading permit required; exceptions.

A. A city grading permit must be obtained prior to the start of any grading, clearing, filling or other earth change which may:

(1) Introduce sediment into any watercourse of the city; or

(2) Move more than three hundred (300) cubic yards of earth.

B. A grading permit shall not be required for the following:

(1) An excavation below finished grade for basements and footings of a building, for retaining walls or for similar structures attendant to the principal building authorized by a valid building permit. The resulting fill shall:

(a) Not exceed a vertical height of four (4) feet at its deepest point as measured from the natural ground surface.

(b) Not be placed on a surface having a slope steeper than five (5) feet horizontal to one (1) foot vertical.

(c) Not impair existing surface drainage, constitute a potential erosion hazard or act as a source of sedimentation to any adjacent land or

watercourse.

(d) Have no final slopes steeper than one (1) foot vertical in three (3) feet horizontal.

(e) Have all disturbed areas promptly seeded or sodded as soon as the season permits.

(2) An excavation which:

(a) Is less than four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.

(b) Does not result in a total quantity of more than three hundred (300) cubic yards of material on any lot, parcel or subdivision thereof.

(c) Does not impair existing surface drainage, constitute a potential erosion hazard or act as a source of sedimentation to any adjacent land or watercourse.

(d) Has no final slopes steeper than one (1) foot vertical in three (3) feet horizontal.

(e) Has all disturbed areas promptly seeded or sodded as soon as the season permits.

(3) A fill which:

(a) Is less than four (4) feet in vertical height at its deepest point as measured from the natural ground surface.

(b) Is placed on a surface having a slope not steeper than five (5) feet horizontal to one (1) foot vertical.

(c) Does not exceed a total of three hundred (300) cubic yards of material on any lot, parcel or subdivision thereof.

(d) Does not impair existing surface drainage, constitute a potential erosion hazard or act as a source of sedimentation to any adjacent land or watercourse.

(e) Has no final slopes steeper than one (1) foot vertical in three (3) feet horizontal.

(f) Has all disturbed areas promptly seeded or sodded as soon as the season permits.

(4) Accepted agricultural land management practices, such as plowing, and nursery operations, such as the removal and/or transplanting of cultivated sod, shrubs and trees and tree cutting at or above existing ground, leaving the stump, ground cover and root mat intact.

(5) The stockpiling, with slopes at a natural angle of repose, of raw or processed sand, stone and gravel at quarries, concrete, asphalt and material processing plants and storage yards, provided that approved sediment and erosion control measures have been employed to protect against off-site damages.

(6) Refuse disposal areas or sanitary landfills operated and conducted in accordance with the requirements, rules and ordinances adopted by Worcester County and the State of Maryland. Exemption from permit, however, does not exempt these projects from other aspects of this chapter, including inspection as covered in this chapter.

(7) Grading and trenching for utility installations within:

(a) Highway rights-of-way.

(b) Utility easements; provided, however, that all grading or trenching involved does not disturb the natural terrain and that if during the course of utility operations any erosion and sediment control measures previously in place are disturbed or destroyed, the utility company shall restore or repair such measures to their original condition.

(8) Individual private septic systems which do not disturb the natural terrain.

(9) Grading as a maintenance measure or for landscaping purposes on existing developed lots or parcels, provided that:

(a) The aggregate of the area(s) affected or bared at any one time does not exceed three thousand (3,000) square feet.

(b) The grade change does not exceed three (3) feet at any point and does not alter the drainage pattern.

(c) All bare earth is promptly seeded, sodded or otherwise effectively protected from erosive actions.

(d) The grading does not involve a quantity of material in excess of three hundred (300) cubic yards.

(10) Authorized Pocomoke City public works improvement and maintenance activities. Exemption from permit, however, does not exempt these projects from other aspects of this chapter, including inspection, as covered in this chapter.

(11) Construction of single-family residences and/or their accessory buildings on lots of two (2) acres or more.

§ 140-2. Conditions; denial of permit.

The city reserves the right to impose such conditions on the grading permit as may be reasonable

to prevent creation of a nuisance or dangerous condition and to deny the issuance of a grading permit where the proposed work would cause a hazard adverse to the public safety and welfare.

§ 140-3. Permit application.

Application forms for a grading permit will be available at City Hall and such other places as the Council shall direct. The form, when completed, shall provide sufficient information to identify the applicant, the place and nature of the work to be done and the steps or procedures to be taken to control erosion and sedimentation and approximate beginning and ending time for soil earthmoving. Acceptable standards and specifications for soil erosion and sediment control shall be available in the office of the Worcester County Soil Conservation District. Where developments are involved [commercial, industrial or two (2) or more residential units or lots], the developer shall include in the application a grading and an erosion and sediment control plan designed by a professional engineer registered in the State of Maryland and a certificate that all land clearing, construction and development will be done pursuant to the said plan.

§ 140-4. Sediment Control Inspector; compliance with county and state requirements.

A. There is hereby created the office of Sediment Control Inspector. The Sediment Control Inspector shall be appointed by the Mayor, with the approval of the Council, shall serve and shall receive such compensation as may be provided for by the Council. The Sediment Control Inspector shall have charge of issuing or refusing permits required under this chapter.

B. Proposed steps and procedures to control erosion and sedimentation must be approved by the Worcester County Soil Conservation District prior to issuance of a grading permit by the Sediment Control Inspector. Erosion and sediment control plans, when required, must be approved by the Worcester County Soil Conservation District. Issuance of a city grading permit does not eliminate the requirement for obtaining a Department of Natural Resources permit, if required under conditions specified by state law.

§140-5. Notice to comply; permit suspension.

In the event that work performed does not conform to the provisions of the permit or to the approved plans and specifications or to any written instructions of the Sediment Control Inspector, a written notice to comply shall be given to the permittee. Such notice shall set forth the nature of the corrections required and the time within which corrections shall be made. Failure to comply with such written notice shall be deemed justification for suspension of the permit, which will require that all work stop except that necessary for correction of the violation. Upon correction of the violation, the permittee may apply for removal of the suspension.

§ 140-6. Permit cancellation.

After suspension of a grading permit, if corrections required are not completed within the time period specified as provided in ~ 140-5 above, the permit shall be canceled. In the event of cancellation, any bonds or cash deposits posted with the city shall be used for work on the site to prevent erosion.

§ 140-7. Cash deposit or bond.

When recommended by the Sediment Control Inspector and approved by the Council, the permittee shall be required, prior to the issuance of a grading permit, to post with the city a cash deposit, performance bond from an approved corporate surety or other collateral acceptable to the city. The amount posted shall be sufficient to guarantee that in the event that provisions of the permit are not completed satisfactorily or that the permit is canceled, the site can be restored to a condition meeting the minimum requirements of the standards for erosion control.

§ 140-8. Duration of permit; extension.

A grading permit shall be valid for a period of one (1) year from the date of issuance. Upon request and adequate justification of a permittee, the Sediment Control Inspector may grant a six-month extension of validity.

§ 140-9. Inspections.

A. The Sediment Control Inspector shall be responsible for detecting violations of this chapter, requiring compliance with provisions of approved grading permits and initiating appropriate action against offenders. The Sediment Control Inspector shall make a final on-site inspection when the work covered by an application is reported completed and shall forward his or her report to the Worcester County Soil Conservation District.

B. The permittee shall request the Sediment Control Inspector to make inspections at the following stages of work:

(1) Prior to initiating any grading operation, to inspect the natural site and to approve a written description of the supervision and construction control program.

(2) Upon completion of preparation of ground to receive fill but prior to beginning any placement.

(3) Upon completion of final grading, permanent drainage and erosion control facilities but prior to any seeding, sodding or planting.

(4) Upon completion of installation of all vegetative measures and all work in accordance with the grading permit.

C. The Sediment Control Inspector may make any additional inspections deemed necessary and may waive any of the inspections listed above except the final on-site inspection. Inspections requested shall be completed within two (2) working days.

§ 140-10. Permit fee[1].

A nonrefundable fee as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[2], shall be paid at the time of application for a grading permit.

§ 140-11. Violations and penalties; injunction; notice of violation.

Any violation of this chapter shall be deemed a misdemeanor, and the person, partnership or corporation who or which is found guilty of such violation shall be subject to a fine not exceeding five thousand dollars ($5,000.) or one (1) year's imprisonment for each and every violation. Any agency whose approval is required under this chapter or any person in interest may seek an injunction against any person, partnership or corporation, whether public or private, violating or threatening violation of any provisions of this chapter. Notice of violation of the provisions of this chapter shall be filed with the Maryland Department of Natural Resources as well as with appropriate county agencies.

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

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 146

HOUSING STANDARDS

§ 146-1. Title.
§ 146-2. Word usage and definitions.
§ 146-3. Compliance required.
§ 146-4. Sanitary facilities.
§ 146-5. Ventilations, screening, lighting and heating.
§ 146-6. Floor space; basement or cellar occupancy.
§ 146-7. Maintenance of dwellings and dwellings units.
§ 146-8. Cleanliness; solid waste disposal.
§ 146-9. Discontinuance of service or utilities.
§ 146-10. Dangerous dwellings.
§ 146-11. Inspections; right of entry.
§ 146-12. Enforcement; notices and orders; hearings; vacation and demolition.
§ 146-13. Housing Board of Review.
§ 146-14. Violations and penalties.
§ 146-15. Construal of provisions.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 7-12-1976 as Ord. No. 242, approved 7-16-1976 (Ch. 22 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Housing Authority -- See Ch. 46.
Building construction -- See Ch. 101.
Unsafe buildings -- See Ch. 107.
Electrical standards -- See Ch. 126.
Fire prevention -- See Ch. 132.
Nuisances -- See Ch. 169.
Plumbing -- See Ch. 183.
Sewers -- See Ch. 192.
Water -- See Ch. 226.

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§ 146-1. Title.

This chapter shall be known and may be cited and referred to as the "Pocomoke City Housing Ordinance."

§ 146-2. Word usage and definitions.

A. Word usage. Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural number the singular. The term "dwelling," "dwelling unit" or "premises" includes the words "or any part thereof."

B. Terms defined. Certain words or terms in this chapter are defined for the purpose hereof as follows:

APPROVED -- Approved by the Housing Inspector appointed by the Mayor with

the approval of the Council to enforce the provisions of this chapter.

BASEMENT -- A portion of a building located partly underground but having less than one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

CELLAR -- A portion of a building located partly or wholly underground and having one-half (1/2) or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DWELLING -- Any building or structure, or part thereof, which is used or intended to be used for living or sleeping.

DWELLING UNIT -- A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping and cooking.

EXTERMINATION -- The control or elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve to harbor pests, by blocking their access to a dwelling or by any other recognized and legal pest elimination methods approved by a health officer of Pocomoke City pursuant to appropriate ordinances.

FIRST STORY -- That story of a dwelling at or next above the average grade of the adjoining ground.

GARBAGE -- The animal and/or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM -- A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

HOUSING INSPECTOR -- The Housing Inspector of Pocomoke City appointed pursuant to this chapter.

INFESTATION -- The presence within or around a dwelling, or in or near waste disposal containers, of any insects, rodents or other pests.

LIGHT HOUSEKEEPING -- The use of a room or rooms for combined living, sleeping and dining purposes by individuals or groups of persons having part of a dwelling, such as stairs or halls, in common but living independently of each other and doing their cooking upon the premises, whether in the same or in other units, as distinguished from a dwelling unit or apartment having normal kitchen and toilet facilities.

LIGHT HOUSEKEEPING UNIT -- The room or rooms occupied for light housekeeping purposes by one (1) individual or group of persons living independently of other such individuals or groups.

OCCUPANT -- Any legally responsible person who has charge, care or control of

a building or part thereof in which dwelling units are leased or let.

OWNER -- Any legally responsible person who, alone or jointly or severally with others:

(1) Has legal title to any dwelling, with or without actual possession thereof; or

(2) Has charge, care or control of any dwelling as owner or agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the owner. Any such person thus representing the "owner" shall be bound to comply with the provisions of this chapter to the same extent as if he or she were the "owner."

PERSON -- Includes any individual, firm, corporation, association or partnership.

PLUMBING -- Water pipes, mechanical garbage disposal units, waste pipes, water closets, sinks, installed dishwashers and clothes-washing machines, lavatories, bathtubs, shower baths, catch basins, drains, vents and other similar supplied fixtures, including all connections to water or sewer lines.

RUBBISH, BURNABLE -- Combustible waste material, except garbage, but including paper, rags, cartons and boxes, wood, excelsior, rubber, leather, tree branches and yard trimmings.

SUPPLIED -- Paid for, arranged, furnished or provided by or under control of the owner or operator.

§ 146-3. Compliance required.

No person shall occupy or let to another for occupancy any dwelling for the purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of §§ 146-4 to 146-7.

§ 146-4. Sanitary facilities.

A. Sink, flush water closet, lavatory basin and bathtub or shower in dwellings.

(1) Every dwelling unit shall contain:

(a) A kitchen sink in good working condition, properly connected to an approved water and sewer system.

(b) A room or rooms affording privacy and equipped with a flush water closet, lavatory basin and bathtub or shower in good working condition, properly connected to an approved water and sewer system, except that where a multiple dwelling was in existence at the time of passage of this chapter, the occupants of not more than two (2) dwelling units may share a room containing lavatory and bath facilities, provided that not more than a total of ten (10)

persons occupy both dwelling units.

(2) No such sanitary facilities shall be located in a basement or cellar, except by written approval of the Housing Inspector.

(3) No water closet shall be of the flush hopper, frostproof hopper, privy or similar type where a sewer system is available within two hundred (200) feet of the dwelling, and where no sewer is available, then such facilities shall be used only when approved by the Housing Inspector.

B. Access to bathrooms and water closets. Access to each bathroom or water closet compartment shall be provided without requiring passage through a sleeping room, bathroom or water closet compartment of another dwelling.

C. Floors and ventilation of bathrooms and water closets.

(1) Every water closet compartment and bathroom shall be floored with a surface which is reasonably impervious to water and which can be easily kept in a clean and sanitary condition.

(2) Every bathroom and water closet compartment shall be provided with windows meeting the requirements for light and ventilation of habitable rooms prescribed in ~ 146-5 or with an approved mechanical or gravity ventilation system affording adequate ventilation and maintained in good working condition at all times.

D. Piped hot and cold running water.

(1) Every kitchen sink, lavatory basin and bathtub or shower required under this chapter shall be connected and supplied with hot and cold running water.

(2) Within one (1) year after the effective date of this chapter, every dwelling shall have supplied water-heating facilities which are properly installed and connected to waterlines maintained in safe and good working condition and of a sufficient capacity to supply an adequate amount of water at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty degrees Fahrenheit (120° F.).

§ 146-5. Ventilation, screening, lighting and heating.

A. Window area and ventilation.

(1) Every habitable room shall have at least one (1) window which can be easily opened facing directly to outdoor open space. The minimum total window area, measured between stops, for every habitable room shall be ten percent (10%) of the floor area of such room unobstructed by any portion of a structure or wall less than five (5) feet from the outside of such window.

(2) The total openable window area for each habitable room shall be equal to at least forty-five percent (45%) of the required window area.

B. Screening.

(1) Every outer door, openable window or other outside opening of a dwelling shall be supplied with screen doors with self-closing devices or with screens for protection against flies, mosquitoes or other insects when required by the Housing Inspector.

(2) Every basement or cellar window used for ventilation and every other opening to a basement or cellar which might afford an entry for rodents shall be barred with strong screen of at least one-fourth-inch mesh or such other device as will prevent such entry, when required by the Housing Inspector.

C. Electrical outlets. Every habitable room shall contain at least one (1) floor- or wall-type electric convenience outlet and one (1) ceiling electric lighting fixture or two (2) electric convenience outlets, and every water closet compartment, bathroom or hall, furnace room or laundry room shall contain at least one (1) wall- or ceiling-type electric light fixture. Every electrical outlet and fixture shall be properly installed and maintained in good and safe working condition and connected to an approved source of electric power in a safe, approved manner.

D. Public hall lighting. Every public hall and stairway in every multiple dwelling shall be lighted to at least one (1) footcandle on the floor and stairs at all times.

E. Heating facilities. Every dwelling shall have heating facilities which are properly installed and vented and maintained in safe operating condition and are capable of heating all habitable rooms, bathrooms and water closet compartments in each dwelling unit therein to a temperature of at least sixty-eight degrees Fahrenheit (68° F.) [thirty-six degrees Celsius (36° C.)] at a distance of three (3) feet above floor level when the outside temperature is zero degrees Fahrenheit (0° F.) [minus thirty-two degrees Celsius (-32° C.)].

§ 146-6. Floor space; basement or cellar occupancy.

A. Floor space.

(1) Every dwelling unit shall contain at least one hundred (100) square feet of floor space for the first occupant thereof and at least seventy-five (75) additional square feet of floor space for every additional occupant, in addition to the floor area included in water closet compartments, bathrooms, halls and passageways.

(2) Every room occupied for sleeping purposes shall contain at least seventy (70) square feet of floor space for one (1) occupant or forty (40) square feet of floor space for each occupant if more than one (1).

B. Access to sleeping rooms. No dwelling unit shall be so located or arranged that

access thereto requires passage through a habitable room or another dwelling unit.

C. Ceiling height of habitable rooms. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven and one-half (7 1/2) feet. The floor area of any part of a room where the ceiling height is less than five (5) feet shall not be considered as part of the required floor area.

D. Basement or cellar occupancy. No basement space shall be used as a habitable room or dwelling unit unless:

(1) The floor and walls are impervious to leakage of underground and surface runoff water and are well drained and protected against dampness.

(2) The total window area in each room is not less than fifteen percent (15%) of the floor area of the room, as measured between stops, and is entirely above the grade of the ground adjoining each window area.

(3) The total openable window area of each habitable room is forty-five percent (45%) of the required window area.

(4) All heating equipment or other equally hazardous equipment is separated from the dwelling unit by a standard partition.

(5) Access can be gained to the unit without passage through a furnace room. No cellar space shall be used as a habitable room of a dwelling unit.

§ 146-7. Maintenance of dwellings and dwelling units.

A. Structural soundness.

(1) Members. Every foundation, door, outer wall, ceiling and roof shall be weathertight, watertight and rodentproof, shall be capable of affording privacy and shall be kept in good repair.

(2) Openings. Every window, exterior door and basement hatchway or stairway shall be weathertight, watertight and rodentproof and shall be kept in good working condition and repair.

(3) Stairs and porches. Every inside and outside stair and handrail and every porch and porch rail shall be so constructed as to safely support the maximum load that normal use may require and shall be kept in safe condition and good repair at all times. The Housing Inspector may require a handrail for each stair if deemed necessary.

B. Mechanical soundness of plumbing. All plumbing shall be properly installed and maintained in sanitary condition, free from defects, leaks and obstructions.

C. Safe egress for dwellings. Every dwelling unit shall have at least one (1) unobstructed means of ingress and egress leading to safe open space at ground level and to a public street or alley. Where there is more than one (1) dwelling unit on a second story or where there are more than two (2) stories, a minimum of

two (2) approved exitways shall be provided for every occupied story above or below the first story; except, however, that a second story may be served by a single stairway if such stairway is enclosed by one-hour fire-resistant materials where such second story does not exceed two thousand four hundred (2,400) square feet in floor area and the distance from the dwelling units to the stairway is less than fifty (50) feet.

Amended By Ordinance NO. 409 June 18, 2012

D. Placement of interior furniture in front yards and on open porches prohibited

1. Furniture, furnishings, appliances and decorations associated with the interior of a residential dwelling and constructed of materials not intended and suitable for outdoor usage shall not be placed, used or left:

a. In the front yard of a dwelling, or

b. On an unenclosed, exterior porch or balcony of a dwelling.

2. The prohibition shall not apply to the following:

a. Wood, metal, wicker, or plastic furniture;

b. Outdoor patio furniture with weather resistant cushions;

c. Upholstered furniture bearing an authentic label from the manufacturer; indicating it is intended and rated for outdoor use; and

d. Upholstered furniture duly designated for bulk item collection provided it is placed there no more than three days in advance of the scheduled bulk item collection.

3. Penalties. Violations shall subject to a civil penalty not to exceed $25.00 for a first violation, $50.00 for a second violation and $250.00 for a third violation.

4. Removal. If a violation persists more than seven (7) days after notice is provided by either posting or certified mail, then the City shall be permitted to remove and dispose of the objects.

5. If this ordinance amendment or any portion thereof is held to be invalid by any court of competent jurisdiction, said decision shall not affect the validity of the remaining provisions.

§ 146-8. Cleanliness; solid waste disposal.

A. Owner and owner-occupant responsibility. Every owner or owner-occupant shall be responsible for the cleanliness of all parts of a dwelling and premises shared in common by more than one (1) family and for provision of the following utilities and services, except where such responsibility is assumed by an operator or an occupant by agreement:

(1) Provision of garbage and trash disposal facilities or containers where the dwelling exceeds two (2) units.

(2) Extermination of insects, rodents or other pests, except that where only one (1) dwelling unit is infested, the occupant of such infested unit shall be responsible for its extermination unless the dwelling is not maintained in a reasonably ratproof or insectproof condition.

(3) Provision of all other facilities, utilities, service or conditions required by this chapter.

B. Occupant responsibility. Every occupant of a dwelling unit shall be responsible for keeping the occupied area and premises and all plumbing equipment and

facilities in a clean, safe and sanitary condition at all times. Rubbish and garbage shall be disposed of or stored in proper containers in a neat and sanitary manner unless disposed of or stored by the owner or owner-occupant as provided in Subsection A of this section.

§ 146-9. Discontinuance of service or utilities.

Upon the discontinuance of gas or electric service for cause by a public utility company or upon discontinuance of any municipal or other service for cause, the Housing Inspector shall be notified and shall thereupon take immediate steps to have the responsible person correct conditions leading to such discontinuance of service, if possible. Because such utilities and services are essential for the health, safety and welfare of the occupants of any dwelling, no dwelling may continue to be occupied after removal or discontinuance of any service, facility, equipment or utility, except for temporary interruptions during actual repair work or during temporary emergencies when discontinuance of service is approved by the Housing Inspector. This section shall not be construed to prevent the cessation or discontinuance of any such service upon order of the Housing Inspector or any other authorized official.

§ 146-10. Dangerous dwellings.

A. All dwellings or parts thereof which have any of the following defects shall be deemed "dangerous dwellings" and shall be condemned as unfit for human habitation:

(1) Those whose interior or exterior bearing walls or other vertical structural members list, lean or buckle to such an extent as to weaken the structural support they provide.

(2) Those which, excluding the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting member or members or fifty percent (50%) or more of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as no longer to provide shelter from the elements and which have become dangerous to the life, safety, morals or general health and welfare of the occupants or the people of the city.

(5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, vermin-infested or obsolete that they are likely to cause sickness or disease or injury to the health, morals, safety or general welfare of those living therein or of the people at large.

(6) Those which lack light, air and sanitation facilities as required by this chapter to protect the health, morals, safety or general welfare of persons living therein.

(7) Those which lack the facilities required by this chapter for egress in case of fire or panic or those which have insufficient stairways, elevators, fire escapes or other means of communications required herein.

(8) Those having parts thereof which are so attached that they may fall and injure occupants, the public or other property.

B. Declaration of nuisance and orders.

(1) All dangerous dwellings or parts thereof, within the terms of this chapter, are hereby declared to be public nuisances and shall be vacated and repaired or demolished.

(2) In any case where a dangerous dwelling is fifty percent (50%) or more damaged or decayed or deteriorated from its original structure, or where it cannot be repaired so as to comply with the terms of this chapter, it shall be ordered vacated and demolished. Dwellings ordered vacated shall be vacated in accordance with the provisions of ~ 146-12.

§ 146-11. Inspections; right of entry.

A. The Housing Inspector is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units and premises located within Pocomoke City in order to safeguard the health and safety of the occupants of such dwellings and of the general public. For this purpose and upon showing proper identification, the Housing Inspector is authorized to enter, examine and survey at any reasonable hour all dwellings, dwelling units and premises, and the owner, occupant or the person in charge thereof shall give the Housing Inspector free access thereto for the purpose of such inspection.

B. Every occupant of a dwelling shall give the owner thereof or his or her agent or employee access to any part of such dwelling or its premises at any reasonable hour for the purpose of making any repairs or alterations which are necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant thereto.

C. No officer, agent or employee of the City of Pocomoke City shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties under this chapter. Any suit brought against any officer, agent or employee of Pocomoke City as a result of the proper discharge of his or her duties under this chapter shall be defended by the City Attorney until final determination of the proceedings therein.

§ 146-12. Enforcement; notices and orders; hearings; vacation and demolition.

A. Notices of violation.

(1) Form and service of notice.

(a) Whenever the Housing Inspector determines that there has been a violation of any provision of this chapter, he or she shall give notice of such violation to the person or persons responsible therefor and order compliance with this chapter as hereinafter provided. Such notice and order shall be in writing on an appropriate form and shall include:

[1] A list of the violations, with reference to the section of the chapter violated, and an order as to the remedial action required to effect compliance with this chapter.

[2] Specification of a reasonable time for performance.

[3] Advice concerning the procedure for appeal.

(b) Such notice and order shall be served upon the owner, occupant or agent in person; provided, however, that the notice and order shall be deemed to be properly served if such owner, occupant or agent is sent a copy thereof by registered mail to his or her last known address and a copy is posted in a conspicuous place in or on the dwelling affected.

(2) Whenever the Housing Inspector determines that a dwelling is a "dangerous dwelling," as defined in ~ 146-10, he or she shall:

(a) Affix upon the door or entrance to such dwelling a printed placard declaring that such dwelling is unfit for human habitation and is ordered vacated. No person shall deface or remove such placard from any dwelling which has been condemned as unfit for human habitation and placarded as such. The Housing Inspector shall remove the placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

(b) Serve notice, as provided herein, to the owner and occupant or lessee of any building found by him or her to be a dangerous dwelling within the standards set forth in ~ 146-10 that:

[1] The owner must vacate and repair or demolish said building in accordance with the terms of the notice and this chapter.

[2] The occupant or lessee must vacate said building or, with the consent of the owner, may order it vacated in accordance with the notice and order and remain in possession.

B. Hearings.

(1) Any person affected by a notice and order issued in connection with the enforcement of this chapter may request and shall be granted a hearing on the matter before the Housing Board of Review, provided that such person shall file in the office of the Housing Inspector a written petition

requesting the hearing and setting forth his or her name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed ten (10) days after the date the notice and order are served. Upon receipt of the petition, the Housing Inspector shall set a time and place for a hearing before the Housing Board of Review and shall give the petitioner written notice thereof. Said hearing shall be held within a reasonable time after a petition has been filed, and the petitioner shall be given an opportunity to be heard and to show cause why the notice and order should be modified or withdrawn. The failure of the petitioner or his or her representative to appear and to state his or her case at such hearing shall have the same effect as if no petition were filed.

(2) After the hearing, the Housing Board of Review, by a majority vote, shall sustain, modify or withdraw the notice, depending on its findings as to whether the provisions of this chapter have been complied with, and the petitioner and the Housing Inspector shall be notified, in writing, of such findings.

(3) The proceedings of the hearing, including the findings and decision of the Housing Board of Review and the reasons thereof, shall be summarized in writing and entered as a matter of public record in the office of the Housing Inspector. Such record shall also include a copy of every notice and order issued in connection with the case.

C. Orders to vacate.

(11) Where a notice of violation and order to comply have been served pursuant to this chapter and, upon reinspection at the end of the time specified in compliance with the notice of violation and order, and if no petition for a hearing has been filed, it is found that the violation or violations have not been remedied, the Housing Inspector may order the dwelling, or the parts thereof affected by the continued violations, vacated in accordance with the following procedure:

(a) Dwellings shall be vacated within a reasonable time not to exceed sixty (60) days.

(b) Vacated dwellings shall have all outer doors firmly locked and basement, cellar and first-story windows barred or boarded to prevent entry.

(c) Vacated dwellings shall not again be used for human habitation until written approval is secured from the Housing Inspector.

(2) If a dwelling or part thereof is not vacated within the time specified in the order of vacation, the Housing Inspector shall seek a court order in a court of competent jurisdiction for the vacation of such dwelling or part thereof.

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

D. Emergency order. Whenever the Housing Inspector finds that an emergency exists which requires immediate action to protect the health and safety of the residents or of the public, he or she may issue an order so stating, and, notwithstanding any other provision of this chapter, such order shall take effect and shall be complied with immediately. [Amended 3-6-1978 by Ord. No. 253, approved 3-7-1978]

E. Vacation and demolition. [Amended 3-6-1978 by Ord. No. 253, approved 3-7-1978]

(1) If the owner, occupant or lessee fails to comply with the order of the Housing Inspector or the action of the Housing Board of Review after hearing, the Housing Inspector, at his or her election, may cause such dwelling or part thereof to be vacated and repaired or demolished as specified in the order of the Housing Inspector or the decision of the Housing Board of Review.

(2) The cost of any repair or demolition incurred by the city pursuant to Subsection D or Subsection E(1) shall constitute a lien on the property and, unless paid in full by the property owner within thirty (30) days after the same is billed by the City Clerk, shall draw interest from and after said thirty (30) days at the rate of two-thirds of one per centum (2/3 of 1%) per month or fraction of a month, and the cost thereof, if not paid, shall be added to the next annual tax bill of said property, and the City Clerk shall not accept payment for or receipt said tax bill unless the amount so assessed against said property, with interest thereon, is included in the amount paid.

§ 146-13. Housing Board of Review.

A Housing Board of Review is hereby created to conduct the hearings authorized by this chapter. Such Housing Board shall consist of five (5) members to be appointed by the Mayor and confirmed by the Council for overlapping terms of three (3) years each, except that the members of the first Board shall be appointed two (2) for one (1) year, two (2) for two (2) years and one (1) for three (3) years, respectively. Each member of the Board shall serve until a successor is appointed. All members of the Board shall be citizens of the United States and residents of Pocomoke City. The Housing Board of Review shall:

A. Adopt rules of procedure not inconsistent with this chapter, elect its own officers and keep a record of all proceedings, including the vote of each member on each case heard. No member of the Board shall take part in any hearing or determination in which he or she has, directly or indirectly, any personal or financial interest. Three (3) members of the Board in attendance at any meeting shall constitute a quorum.

B. Interpret the intent of this chapter in specific cases where, upon appeal, it clearly appears that, by reason of special conditions, undue hardship would result from the literal application of any section of this chapter. Where such undue hardship is clearly demonstrated, the Board may permit a variance from the applicable section, provided that the dwelling will vary only a reasonable minimum from the literal provision of this chapter and will comply generally with the spirit and

intent of the regulations as to sanitation, safety and rehabilitation. Any such variance shall be permitted only by the concurring vote of at least three (3) members of the Board.

§ 146-14. Violations and penalties[2].

Any person who shall violate any provision of this chapter shall, upon conviction, be guilty of a municipal infraction and subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[3]. Each day of failure to comply with any such provision shall constitute a separate violation.

§146-15. Construal of provisions.

The provisions of this chapter shall be held to be the minimum requirements to protect the health, safety, morals and welfare of the people of the city, and where this chapter imposes greater requirements than imposed by other provisions of law or ordinance, the provisions of this chapter shall control.

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

3Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 160

LITTERING

§ 160-1. Purposes; title.
§ 160-2. Definitions.
§ 160-3. Unlawful activity.
§ 160-4. Presumption of responsibility for violation.
§ 160-5. Violations and penalties.
§ 160-6. Enforcement.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 6-19-1995 as Ord. No. 331. Amendments noted where applicable.]

GENERAL REFERENCES

Housing standards -- See Ch. 146.
Solid waste -- See Ch. 195.
Nuisances -- See Ch. 169.

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§ 160-1. Purpose; title.

A. It is the purpose of this chapter to provide for the uniform prohibition throughout Pocomoke City of any and all littering on public or private property.

B. This chapter shall be known and may be cited as the "Litter Control Ordinance."

§ 160-2. Definitions.

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

COMMERCIAL PURPOSE -- For the purpose of economic gain.

LITTER -- All rubbish, waste matter, refuse, garbage, trash, debris, dead animals or other discarded materials of every kind, nature and description.

PERSON -- An individual, firm, sole proprietorship, partnership, corporation, limited liability company or unincorporated association.

PUBLIC OR PRIVATE PROPERTY -- The right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, parking facility, playground, public service company property or transmission line right-of-way, building, refuge or conservation or recreation area; and any residential or farm properties, timberlands or forest.

§ 160-3. Unlawful activity.

It shall be unlawful for any person or persons to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the city, unless:

A. Such property is designated by the city, or by the owner or tenant in lawful possession of private property, for the disposal of such litter and such person is authorized by the proper public or private authority to use such property;

B. Such litter is placed into a litter receptacle or appropriate container installed on such property; or

C. Such person is the owner or tenant in lawful possession of such property or has first obtained the consent of the owner or tenant in lawful possession or unless the act is done under the personal direction of said owner or tenant in a manner consistent with the public welfare.

§ 160-4. Presumption of responsibility for violation.

A. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane or other conveyance in violation of ~ 160-3 of this chapter, and if the vehicle, boat, airplane or other conveyance has two (2) or more occupants and it cannot be determined which occupant is the violator, the owner of the vehicle, boat, airplane or other conveyance, if present, shall be presumed to be responsible for the violation. In the absence of the owner, the operator shall be presumed to be responsible for the violation.

B. Notwithstanding any other provision of law, if the facts of any case in which a person is charged with violating this chapter are sufficient to prove that the person is responsible for the violation, it is not necessary that the owner of the property on which the violation allegedly occurred be present at any court proceeding regarding the case.

§160-5. Violations and penalties.

A1. Any person violating the provisions of ~ 160-3 of this chapter shall be guilty of a municipal infraction and shall be subject to the following:

(1) A person who dumps litter in violation of ~ 160-3 of this chapter in an amount not exceeding one (1) pound in weight or one (1) cubic foot in volume and not for commercial purposes shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time2.

(2) A person who dumps litter in violation of ~ 160-3 of this chapter in an

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

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

amount exceeding one (1) pound in weight or one (1) cubic foot in volume and not for commercial purposes shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[3].

(3) A person who dumps litter in violation of ~ 160-3 of this chapter consisting of tires, batteries, motor vehicle parts or hazardous materials, as defined in Section 22-501, Title 22, of the Health-General Article of the Annotated Code of Maryland, or for commercial purposes shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[4].

B. Each act constituting a violation of the provisions of ~ 160-3 of this chapter which is separate in time or location shall be deemed to be a separate violation, subject to a separate fine for each such act.

§ 160-6. Enforcement.

A. All Pocomoke City Police Department officers and employees, the Pocomoke City Housing Administrator, the department head of the Pocomoke City Public Works Department, all Pocomoke City employees assigned to the municipal golf course or any Pocomoke City park, fairgrounds, nature trail or dock area and the City Manager are hereby authorized, empowered and directed to enforce this chapter and may serve a citation on any person whom they believe is committing or has committed a violation of the provisions of ~ 160-3 of this chapter.

B. All Pocomoke City police officers are hereby authorized, empowered and directed to enforce this chapter and may serve a citation on any person on the basis of an affidavit submitted to the Chief of the Pocomoke City Police Department, the Pocomoke City Clerk or the Pocomoke City Deputy Clerk citing the facts of an alleged violation of ~ 160-3 of this chapter.

3Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

4 Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 166

NOISE

§ 166-1. Definitions.
§ 166-2. Loud, unnecessary and unusual noice.
§ 166-3. Prohibited noises.
§ 166-4. Noncommercial use of sound trucks; registrations.
§ 166-5. Regulation of sound tracks.
§ 166-6. Commercial use of sound tracks license required; fee.
§ 166-7. Compliance with regulations required.
§ 166-8. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 11-18-1968 as Ord. No. 199 (Ch. 28 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Animals -- See Ch. 89.
Peace and good order -- See Ch. 177.
Peddling and soliciting -- See Ch. 180.

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§ 166-1. Definitions.

The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except as may hereinafter be specifically provided:

> SOUND-AMPLIFYING EQUIPMENT -- Any machine or device for the amplification of the human voice, music or any other sound, but shall not be construed to include standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.
>
> SOUND TRUCK -- Any motor vehicle or horse-drawn vehicle having mounted thereon or attached thereto any sound-amplifying equipment.

§ 166-2. Loud, unnecessary and unusual noise.

No person shall make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city.

§ 166-3. Prohibited noises.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive:

A. Horns and signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation, by means of any such signaling device, of any unreasonably loud or harsh sound and the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device, except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

B. Radios and phonographs. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, jukeboxes or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring residents or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto; the operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is playing shall be prima facie evidence of a violation of this chapter.

C. Yelling and shouting. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or at any dwelling, hotel or other type of residence or of any persons in the vicinity.

D. Loading, unloading and opening boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicles or the opening or destruction of bales, boxes, crates or containers.

E. Pile drivers and hammers. The operation, between the hours of 10:00 p.m. and 7:00 a.m., of any pile driver, steam shovel, dredge, pneumatic hammer, derrick, steam or electric hoist, excavating equipment or other appliance, the use of which is attended by loud or unusual noise.

F. Loudspeakers or amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building, structure, assemblage or person, except as otherwise provided in this chapter.

§ 166-4. Noncommercial use of sound trucks; registration.

A. No person shall use or cause to be used a sound truck with its sound-amplifying equipment in operation for noncommercial purposes in the city without filing a registration statement, in writing, with the City Clerk.

B. A registration statement, as referred to in Subsection A, shall be filed in duplicate and shall state the following:

(1) Name and home address of the applicant.

(2) Address of place of business of the applicant.

(3) License number and manufacturer's serial number of the sound truck to be used by the applicant.

(4) Name and address of the person who owns the sound truck.

(5) Name and address of the person having direct charge of the sound truck.

(6) Names and addresses of all persons who will use or operate the sound truck.

(7) Purpose for which the sound truck will be used.

(8) A general statement as to the section of the city in which the sound truck will be used.

(9) The proposed hours of operation of the sound truck.

(10) The number of days of proposed operation of the sound truck.

(11) A general description of the sound-amplifying equipment which is to be used.

(12) The maximum sound-producing power of the sound-amplifying equipment to be used in or on the sound truck.

(13) The wattage to be used.

(14) The volume in decibels of the sound which will be produced.

(15) The approximate maximum distance for which sound will be thrown from the sound truck.

C. Amendment of registration statement. All persons using or causing to be used sound trucks for noncommercial purposes shall amend any registration statement filed pursuant to Subsection A within forty-eight (48) hours after any change in the information therein furnished.

D. Return of certified copy. The City Clerk shall return to each person filing the registration statement under Subsection A one (1) copy of such registration statement duly certified by the City Clerk as a correct copy of his or her registration statement.

E. Possession and display of certified registration. The certified copy of the registration statement, returned as provided in Subsection D, shall be in the possession of the person operating the sound truck at all times while the sound-amplifying equipment is in operation. Such copy shall be promptly displayed and shown to any police officer upon request.

§ 166-5. Regulation of sound trucks.

Noncommercial use of sound trucks in the city with sound-amplifying equipment in operation shall be subject to the following regulations:

A. The only sounds permitted are music or human speech.

B. Operations are permitted for four (4) hours each day, except on Sundays and legal holidays, when no operations shall be authorized. The permitted four (4) hours of daily operations shall be between the hours of 11:30 a.m. and 1:30 p.m. and between the hours of 4:30 p.m. and 6:30 p.m.

C. Sound-amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour, except when such truck is stopped or impeded by traffic. Where stopped by traffic, the sound-amplifying equipment shall not be operated for longer than one (1) minute at each such stop.

D. Sounds shall not be issued within one hundred (100) yards of hospitals, schools, churches, libraries or courthouses.

E. The human speech and music amplified shall not be profane, lewd, indecent or slanderous.

F. The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) feet from the sound truck and so that such volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

G. No sound-amplifying equipment shall be operated with an excess of fifteen (15) watts of power in the last stage of amplification.

§ 166-6. Commercial use of sound trucks; license required; fee. [Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]

A. No person shall operate or cause to be operated any sound truck in the city for commercial advertising purposes with sound-amplifying equipment in operation unless a license therefor has been obtained from the City Clerk. The fee for such license shall be in the amount as shall be determined by the Council by resolution.

B. Application for license. A person applying for a license as required under Subsection A shall file with the City Clerk an application, in writing, giving in such application the information required in the registration statement under

~ 166-4B.

C. Possession and display of license. A licensee under this chapter shall keep his or her license in his or her possession in the sound truck during the time the sound truck's sound-amplifying equipment is in operation. Such license shall be properly displayed and shown to any police officer upon request.

D. Issuance of license. The City Clerk shall issue a license as required under Subsection A upon payment of the required license fee, unless the application required by Subsection B indicates that the applicant would be in violation of the regulations prescribed by § 166-7 or some other provision of this chapter or other ordinance of the city.

§ 166-7. Compliance with regulations required.

No person shall operate or cause to be operated any sound truck for commercial advertising purposes in violation of the regulations set forth in §166-5.

§ 166-8. Violations and penalties[1].

Any violation of the provisions of this chapter shall be a municipal infraction and shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[2].

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

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 169

NUISANCES

§ 169-1. Property maintenance.
§ 169-2. Abatement.
§ 169-3. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-26-1968 as Ch. 30 of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Animals -- See Ch. 89.
Brush, grass and weeds -- See Ch. 98.
Unsafe buildings -- See Ch. 107.
Housing standards -- See Ch. 146.
Littering -- See Ch. 160.
Noise -- See Ch. 166.
Solid waste -- See Ch. 195.

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§ 169-1. Property maintenance.

Lots, buildings, premises or outhouses situated within the city shall be maintained and kept free from weeds, rubbish, refuse, trash, stagnant water, waste and useless and discarded materials and articles or any other substance which may be a nuisance or a danger to the public health.

§ 169-2. Abatement. [Amended 1-20-1969 by Ord. No. 2113]

A. Whenever any lot, building or premises within the city becomes filthy or unwholesome to such an extent that the condition of the lot, building or premises is detrimental to the public health, the City Manager shall direct and notify the owner of the premises to cleanse and abate the same to the end that the same shall be put in a clean and healthy condition.

B. A copy of the notice shall be mailed by registered or certified mail by the City Clerk to the owner of the premises at his or her last known post office address. The notice shall require the owner to abate and cleanse the premises within seven (7) days from the date of such mailing.

C. Whenever the notice is mailed as aforesaid and the premises mentioned therein are not cleansed or abated within the period of seven (7) days from the date of such mailing, the City Manager shall cause the premises to be cleansed and abated at the cost and expense of the owner of the property, and such cost and expense, plus an administrative charge of twenty-five percent (25%), shall be a lien and a charge against the property, to be collected in the same manner as municipal taxes are collected.

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[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 169-3. Violations and penalties[2].

Any person who violates any provision of this chapter shall, upon conviction thereof, be guilty of a municipal infraction, punishable by a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[3].

[2]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[3]Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 173

PARKS AND RECREATION AREAS

§ 173-1. Establishment; rules and regulations.
§ 173-2. Applicability.
§ 173-3. Approving authority.
§ 173-4. Lawful activity.
§ 173-5. Unlawful acts.
§ 173-6. Vehicles.
§ 173-7. Firearms, weapons and explosives.
§ 173-8. Advertising materials.
§ 173-9. Permit required for certain activities.
§ 173-10. Sales.
§ 173-11. Fires; combustible materials.
§ 173-12. Use requlations.
§ 173-13. Picnic areas.
§ 173-14. Boating.
§ 173-15. Closing hours.
§ 173-16. Special events.
§ 173-17. Enforcement.
§ 173-18. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 9-13-1993 as Ord. No. 325. Amendments noted where applicable.]

GENERAL REFERENCES

Boats and boating -- See Ch. 95.

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§ 173-1. Establishment; rules and regulations.

The Mayor and Council of Pocomoke may, from time to time, designate such property owned by the City of Pocomoke as a park or recreational facility for use by the general public, upon such conditions and subject to such regulations as set forth in this chapter, and may authorize the City Manager to promulgate additional rules for the safe and efficient use of such parks and recreational facilities as determined to be in the public interest.

§ 173-2. Applicability.

This chapter shall apply to all parks and recreational facilities under the jurisdiction of Pocomoke City in existence on the date of enactment of this chapter and established hereafter.

§ 173-3. Approving authority.

The authority for the issuance of permits, temporary designations, authorizations, granting of approval and other actions shall be the City Manager or his or her designee.

§ 173-4. Lawful activity.

A. No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the city in the line of duty or work as such or by any person, his or her agent or employees in the proper and necessary execution of the terms of any agreement with the city.

B. Any act otherwise prohibited by law or local ordinance shall be lawful if performed under, by virtue of and strictly within the provisions of a permit so to do and to the extent authorized thereby.

§ 173-5. Unlawful acts.

It shall be unlawful for any person in a public park or recreational facility to:

A. Mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings or paving materials, docks, lights, light poles, play equipment, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

B. Fail to cooperate in maintaining rest rooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the rest rooms and washrooms designated for the opposite sex.

C. Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials or make any excavation by tool, equipment, blasting or other means or agency.

D. Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

E. Damage, cut, carve, mark, transplant or remove any plant or injure the bark or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas or in any other way injure the natural beauty or usefulness of any area.

F. Climb any tree or walk, climb, stand or sit upon monuments, vases, planters, fountains, railings or fences or upon any other property not designated or customarily used for such purpose.

G. Attach any rope or cable or other contrivance to any tree, fence, railing, bridge, bench or other structure.

H. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such water any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

I. Take into, carry through or put into any park any rubbish, refuse, garbage or other material. Such refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

J. Bring any glass beverage or drink container into any outdoor park or recreation area.

K. Cause or permit to run loose any animal.

L. Tie or hitch an animal to any tree or plant.

M. Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird; nor shall he or she remove or have in his or her possession the young of any wild animal or the eggs or nest or young of any reptile or bird. Exception to the foregoing is made in that snakes known to be deadly poisonous may be killed on sight.

N. Ride a horse except on designated bridle trails. Horses shall be thoroughly broken and properly restrained and ridden with due care and shall not be allowed to graze or go unattended.

O. Walk a domestic animal without a leash, said leash to be no longer than six (6) feet. Further, the owner or person having custody of said domestic animal shall be responsible for removal of any animal solid waste.

§ 173-6. Vehicles.

It shall be unlawful for any person in a public park or recreation facility to:

A. Drive any vehicle on any area except the paved park roads or parking areas or such areas as may on occasion be specifically designated as temporary areas, provided that golf carts may be operated in and upon the municipal golf course in accordance with rules established for that facility.

B. Park a vehicle anywhere except on a designated parking area.

C. Leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation area during hours when the park and recreation area is closed.

D. Leave a bicycle in a place other than a bicycle rack when such is provided and there is space available.

E. Ride a bicycle without reasonable regard to the safety of others.

F. Leave a bicycle lying on the ground or paving or set against trees or in any place or position where other persons may trip over or be injured by it.

G. Wash any vehicle.

H. Use the parks, park drives, parking places or parkways for the purpose of demonstrating any vehicles or for the purpose of instructing another to drive or operate any vehicle; nor shall any person use any park area, including parking places, for the repairing or cleaning of any vehicle, except in an emergency.

§ 173-7. Firearms, weapons and explosives.

It shall be unlawful for any person to bring into or have in his or her possession in any park or recreation area:

A. Any pistol or revolver or objects upon which loaded or blank cartridges may be used. Official starters, at authorized track and field events, are excepted from this restriction.

B. Any burglar tools.

C. Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow or other weapon in which the propelling force is gunpowder, a spring or air.

D. Any fireworks or explosives, except that permits may be given for conducting properly supervised fireworks in designated park areas.

§ 173-8. Advertising materials.

No person shall post, paint, affix, distribute, deliver, place, cast or leave about any bill, billboard, placard, ticket, handbill, circular or advertisement.

§ 173-9. Permit required for certain activities.

No person shall do any of the following without a permit, provided that no permit shall be required for any action or event sponsored by the city:

A. Display any advertising signs or other advertising matter, provided that a sign attached to a vehicle to identify the vehicle or a sign lawfully on a taxi or bus is not prohibited.

B. Operate for advertising purposes any musical instrument, soundtrack or drum.

C. Hold public assemblages.

D. Conduct exhibitions.

E. Hold a parade.

§ 173-10. Sales.

No person shall expose or offer for sale any article in any park or recreation area without a

license or permit issued by the city.

§ 173-11. Fires; combustible materials.

A. No person shall kindle, build, maintain or use a fire except in places provided for such purposes. Any fire shall be continuously under the care and direction of a competent person from the time it is kindled until it is extinguished.

B. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle or under any tree or in underbrush.

§ 173-12. Use regulations.

It shall be unlawful for any person in a park or recreation area to:

A. Camp or stay overnight anywhere except in areas designated for camping or staying overnight in vehicles or trailers.

B. Take part in the playing of any games involving thrown or otherwise propelled objects except in those areas designated for such forms of recreation.

C. Play football, baseball, basketball, soccer or lacrosse except in areas designated for such games.

D. Roller-skate or use skateboards except in those areas specifically designed for such pastimes.

E. Enter an area posted as "closed to the public."

F. Engage in threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.

G. Fail to produce and exhibit any permit he or she claims to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

H. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.

I. Erect or occupy any tent, stand or other structure in any park or playground or sell or give away from any such tent, stand or other structure any food, drink or other thing without permit.

J. Swim or dive from any dock, bulkhead, ramp or bridge in any park or recreational area.

K. Possess, use or consume any alcoholic beverage in any park or recreational facility, except in conjunction with a permit issued for organized group picnics or functions.

§ 173-13. Picnic areas.

It shall be unlawful for any person or group of persons to hold a picnic in any park except in areas set aside or specifically designated as picnic areas. A permit must be secured for any use of the Log Cabin or Cypress Park covered shelter.

§ 173-14. Boating.

Any person desiring to use any kind of a boat in parks shall abide by the ordinances relating to boating in public places. No boats with motors shall operate in Stevenson Pond in a manner that will produce a wake or wave or otherwise interfere with or disturb nonpowered boats or canoes or exceed any posted speed limit.

~ 173-15. Closing hours.

Except for lighted tennis courts, designated camping areas and in accordance with permitted activities, no person shall be in any park during the hours the park is closed.

§ 173-16. Special events.

A. Permits for special events in parks and recreation facilities shall be obtained by application to the approving authority or his or her designee in accordance with the following procedure:

(1) A person seeking issuance of a permit hereunder shall make application at the City Hall and provide:

(a) The name and address of the applicant and responsible person or organization sponsoring the event.

(b) The day and hours for which the permit is desired.

(c) The park or portion thereof for which the permit is desired.

(d) Any other information reasonably necessary to a determination as to whether a permit should be issued hereunder.

(2) Standards for issuance of a use permit shall include the following findings:

(a) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park.

(b) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

(c) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.

(d) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the city.

(e) That the facilities desired have not been reserved for another use on the date and hour requested in the application.

(f) That the applicant has paid the appropriate fee.

B. A permittee shall be bound by all park rules and regulations and all applicable ordinances as fully as though the same were inserted in said permits.

C. An applicant for a permit may be required to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined prior to the commencement of any activity or issuance of any permit.

D. Revocation. The City Council or the City Manager shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown.

§ 173-17. Enforcement.

A. The City Police Department, designated city employees and attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

B. The City Police Department, designated city employees and any attendant shall have the authority to order any person or persons acting in violation of this chapter to leave the park or recreation area.

§ 173-18. Violations and penalties[1].

Any violation of the provisions of this chapter shall constitute a municipal infraction, subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[2].

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

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 177

PEACE AND GOOD ORDER

§ 177-1. Open burning
§ 177-2. Throwing missiles.
§ 177-3. Firearms and fireworks.
§ 177-4. Disorderly conduct.
§ 177-5. Alcoholic beverages.
§ 177-6. Malicious destruction of property.
§ 177-7. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-26-1968 as Ch. 33 of the 1968 Code; amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 86.
Animals -- See Ch. 89.
Littering -- See Ch. 160.
Noise -- See Ch. 166.
Nuisances -- See Ch. 169.

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§ 177-1. Open burning.

No person shall burn any waste, brush, trash or other materials in the open air in the city except as authorized by a permit issued by the Fire Marshal or the Fire Chief.

§ 177-2. Throwing missiles.

No person shall throw any ball, brick or other missile on the public streets of the city.

§ 177-3. Firearms and fireworks.

It shall be unlawful to discharge any firearms or air guns or fireworks within the city, except by special permit authorized by the Mayor and City Council or the City Manager, provided that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his or her duty or to prohibit any citizen from discharging a firearm when lawfully defending his or her person or property.

§ 177-4. Disorderly conduct.

A. No person shall act in a disorderly manner or use any profane, indecent or obscene language in the hearing or in the presence of other persons within the city.

B. No persons shall obstruct at any time the free, unhampered passage of pedestrians or vehicles on any sidewalk or street in the city.

C. No persons shall obstruct, molest or interfere with any person lawfully upon any street, park or other public place in the city.

D. No persons shall refuse to move on when so requested by a police officer when failure to do so may, in the opinion of the officer, result in a breach of the peace, provided that the officer has exercised reasonable discretion under the circumstances in order to preserve or promote peace and good order.

§ 177-5. Alcoholic beverages.

No person shall drink or consume any alcoholic beverage on any street, sidewalk or public or private parking lot or other public way or in any motor vehicle situated thereon.

§ 177-6. Malicious destruction of property.

No person shall willfully and maliciously destroy, injure, deface or molest any real or personal property of another.

§ 177-7. Violations and penalties.

A violation of the provisions of this chapter shall be a municipal infraction and shall be punishable by a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[1].

[1] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 180

PEDDLING AND SOLICITING

§ 180-1. Definitions.
§ 180-2. License required.
§ 180-3. Application for license.
§ 180-4. Fees.
§ 180-5. License issuance; conditions.
§ 180-6. Display of license; compliance with license.
§ 180-7. Time and location restrictions.
§ 180-8. Noise.
§ 180-9. Nuisances.
§ 180-10. Form and contents of license.
§ 180-11. Numbering of licenses.
§ 180-12. Violatoins and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-6-1969 as Ord. No. 204 (Ch. 20 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Noise -- See Ch. 166.

Transient merchants -- See Ch. 214.

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§ 180-1. Definitions.

The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except as may hereinafter be specifically provided:

PEDDLER -- Any person who shall engage in peddling as herein defined.

PEDDLING -- The selling or offering for sale of any goods, wares or merchandise for immediate delivery which the person selling or offering for sale carries with him or her in traveling, or has in his or her possession or control, upon any of the streets or sidewalks or from house to house within the city; provided, however, that the word "peddling" shall not apply to the seeking of or taking of orders:

A. By any manufacturer or producer for the sale of bread or bakery products, meat and meat products or milk or milk products;

B. By insurance or real estate agents or brokers licensed under the applicable laws of the State of Maryland; or

C. By newsboys for the sale of newspapers regularly published and/or distributed in Worcester County.

PERSON -- Any natural person, association, partnership, firm or corporation.

SOLICITING -- The seeking or taking of contracts or orders for any goods, wares or merchandise for future delivery or for subscriptions or contributions upon any of the streets or sidewalks or from house to house within the city; provided, however, that the word "soliciting" shall not apply to the seeking of or taking of orders:

A. By any manufacturer or producer for the sale of bread or bakery products, meat and meat products or milk or milk products;

B. By insurance or real estate agents or brokers licensed under the applicable laws of the State of Maryland; or

C. By newsboys for the sale of newspapers regularly published and/or distributed in Worcester County.

SOLICITOR -- Any person who shall engage in soliciting as hereinabove defined.

§ 180-2. License required. [Amended 3-4-1985 by Ord. No. 283, approved 3-6-1985]

A. No person shall engage in soliciting or peddling in the city without first registering with the Police Department and obtaining a city license therefor.

B. Any applicant wishing to obtain a city license for the hawking or peddling of any product, item or service also regulated by another governmental agency (i.e., the Health Department) must show evidence of compliance with such regulations and a current license, where appropriate, prior to the issuance of a city license.

§ 180-3. Application for license.

A. Every person desiring to engage in soliciting or peddling in the city shall first request a license therefor from the Police Department, giving his or her name, address, sex, age, previous criminal record, if any, the name and address of the person for whom he or she works, if any, the type or types of article, device, subscription, contribution, service or contract which he or she desires to sell or for which he or she wishes to solicit within the city, the length of time for which he or she wishes to be registered, the type of vehicle he or she uses, if any, and its registration number.

B. Notwithstanding the provisions of Subsection A hereof, any civic, religious or charitable organization shall be permitted, in lieu of the procedure hereinbefore set forth, to register its solicitors and peddlers acting for and on behalf of such organization or association by the submission of the names and addresses of all persons acting for and on behalf of such organization, together with a certification by an officer thereof that all of the persons whose names appear on such list are members of such organization and/or are acting on its behalf and are of good repute and without prior criminal record of a crime involving moral turpitude.

§ 180-4. Fees. [Amended 7-12-1976 by Ord. No. 243; 7-7-1980 by Ord. No. 262, approved 7-7-1980]

No license shall be issued until the proper fees, as shall be determined by the Council by resolution, shall have been paid to the Police Department.

§ 180-5. License issuance; conditions.

Upon receipt of the required application properly completed by the applicant, together with the necessary fees, the Police Department shall issue a hawker's and peddler's permit, unless the applicant shall have been convicted of a crime involving moral turpitude or unless the organization making application shall be under investigation by the Consumer Protection Division of the Office of the Attorney General of Maryland. No license issued pursuant hereto shall be transferable from one person to another.

§ 180-6. Display of license; compliance with license.

Every solicitor or peddler shall, at all times while engaged in soliciting or peddling in the city, carry on his or her person the license and, upon request, exhibit the same to all police officers, city officials and citizens. No solicitor or peddler shall engage in selling or offering for sale or in seeking or taking of orders or contracts for any goods, wares, merchandise, article, device, subscription, contribution, service or contract not mentioned upon such license, nor shall any person use any vehicle for soliciting or peddling other than the vehicle registered upon his or her license.

§ 180-7. Time and location restrictions.

A. No person shall engage in soliciting or peddling at any time on Sunday or upon any other day of the week before 9:00 a.m. or after 5:00 p.m., except upon invitation from or on appointment with the resident.

B. A person who hawks or peddles goods on the streets of the city from either a vehicle or conveyance of any description shall keep moving from place to place and not remain in any one place longer than twenty (20) minutes or return thereto within a period of five (5) hours. A hawker or peddler shall not be deemed to have complied with this provision unless he or she shall have moved a distance of at least one hundred (100) feet from the point or place at which he or she last stopped.

C. No hawker or peddler shall stop or take up location for the purpose of selling at any point which is less than two hundred fifty (250) feet from the entrance of any store or place of business which sells, at retail, trade goods, wares, merchandise, foodstuffs or produce similar to that which the hawker or peddler is offering for sale. [Amended 5-2-1983 by Ord. No. 271, approved 5-3-1983]

D. Restricted area; Farmers Market. [Added 5-2-1983 by Ord. No. 271, approved 5-3-1983]

(1) Notwithstanding the provisions of any other subsection of this chapter, no hawker or peddler (except ice cream vendors) shall stop or take up location for the purpose of selling at any point within the designated geographical area bounded on four (4) sides as follows: on the west by the

Pocomoke River, on the east by Second Street, on the north by Linden Avenue and Bridge Street and on the south by Cedar Street.

(2) Hawkers and peddlers may sell their wares at the Farmers Market Building located at Market Street near the Pocomoke River upon payment of the rental fee in effect for space at the Farmers Market and compliance with all applicable rules and regulations of the Farmers Market.

§ 180-8. Noise.

No person engaged in soliciting or peddling shall hawk or cry his or her goods, wares, merchandise, offers, contracts or services upon any of the streets or sidewalks of the city, nor shall he or she use any loudspeaker or horn or any other device for announcing his or her presence to the members of the public.

§ 180-9. Nuisances.

Entering a private residence or place of business in the city by a solicitor or peddler under false pretenses for the purpose of selling or offering for sale or for soliciting orders for goods, wares, merchandise, contracts or personal services; or remaining in a private residence or the premises thereof or any place of business or on the premises thereof after the owner or occupant thereof shall have requested any solicitor or peddler to leave; or going in and upon the premises of the private residence or place of business by a solicitor or peddler for any such purpose when the owner or occupant thereof has displayed a "No Soliciting" sign on such premises is prohibited and is further declared to be a nuisance.

§ 180-10. Form and contents of license.

Each license shall be issued in card form, shall be carried by the person for whose benefit it is issued and shall contain the following: number of permit, fee paid, date of issue, expiration date, name, age, height, weight, name of employer, address and signature of holder. The reverse side of such license shall contain any regulations then in effect and controlling the holder as well as any conditions and/or limitations to which such permit is subject.

§ 180-11. Numbering of licenses.

Licenses shall be issued in numerical order; provided, however, that separate records in a separate numerical order shall be retained and maintained for such licenses as are issued without payment of a license fee.

§ 180-12. Violations and penalties. [Amended 3-4-1985 by Ord. No. 283, approved 3-6-19815]

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

In the event that any person shall fail, neglect or refuse to comply with the provisions of this chapter, he or she shall be in violation of this chapter and shall be guilty of a municipal infraction and shall be governed by the provisions of Chapter 1, General Provisions, Article V, Municipal Infractions. Any person found to have committed said municipal infraction shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[2]. Each and every day that a person shall be in violation of this chapter shall constitute a separate offense.

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 183

PLUMBING

§ 183-1. Adoption of Plumbing Code.
§ 183-2. Definitions.
§ 183-3. Permit required; emergencies; existing facilities.
§ 183-4. Compliance with permit and code; inspections.
§ 183-5. Violations and penalties.
§ 183-6. Sewer connection restrictions.
§ 183-7. Tampering with sewers; prohibited deposits.
§ 183-8. Discharge of injurious substances into sewers; connection of existing private facilities.
§ 183-9. Trench excavations.
§ 183-10. Strainers; substances causing obstruction or damage prohibited.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-26-1968 as Ch. 36 of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101.
Housing standards -- See Ch. 146.
Sewers -- See Ch. 192.
Water -- See Ch. 226.

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§ 183-1. Adoption of Plumbing Code. [Amended 11-5-1990 by Ord. No. 312]

The State Plumbing Code as defined in the Business Occupations and Professions Article of the Annotated Code of Maryland, Title 12, as revised from time to time, is hereby adopted by reference as the Plumbing Code of Pocomoke City.

§ 183-2. Definitions. [Amended 11-5-1990 by Ord. No. 312; 1-8-1996 by Ord. No. 334]

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

> PROVIDE PLUMBING SERVICES -- That definition contained in the Code of Public Local Laws of Worcester County, Maryland, Building Regulations Article, § BR 2-106 (1995 edition, as amended).

§ 183-3. Permit required; emergencies; existing facilities. [Amended 11-5-1990 by Ord. No. 312; 1-8-1996 by Ord. No. 334]

A. No person shall provide any plumbing services within the corporate limits of Pocomoke City, Maryland, except as hereinafter provided, without obtaining a permit from the Pocomoke City Manager or City Housing Inspector. A fee may

be charged for such permits. In the case of a bona fide emergency where danger to life and property is present, work may be commenced, provided that a permit must be obtained within twenty-four (24) hours of the next time the City Hall is open for business.

B. Repairs and maintenance without permit. Repairs and maintenance of existing facilities or installations shall not be subject to inspection or require a permit.

§ 183-4. Compliance with permit and code; inspections. [Amended 11-5-1990 by Ord. No. 312; 1-8-1996 by Ord. No. 334]

All work shall be performed in accordance with the permit and the State Plumbing Code and shall be inspected by the Middle Department Inspection Agency, Inc., and no plumbing shall be used until it has passed inspection.

§ 183-5. Violations and penalties. [Amended 11-5-1990 by Ord. No. 312; 1-8-1996 by Ord. No. 3314]

Any person who violates the provisions of ~~ 183-3 and 183-4 of this chapter shall be guilty of a municipal infraction and subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time2.

§ 183-6. Sewer connection restrictions.

No open gutter, cesspool or privy vault shall be connected with any sewer or drain. Cellar and cistern overflows may be connected with the sewer or drain only when they can be trapped in such a manner that the water seal cannot be destroyed and shall be connected separately to the sewer. When it is possible, every house or property must be separately and independently connected with the street sewer, and in no case is a partnership drain allowed, unless permission is given by the Council and approved by the Supervisor of Maintenance.

§ 183-7. Tampering with sewers; prohibited deposits.

No person shall injure, break, remove or interfere with any portion of any manhole, lamphole flush tank, catch basin or any part of the sewer system or throw or deposit or cause to be thrown or deposited in any sewer opening or receptacle connecting with the sewer system any dead animals, oils, gases, grease, inflammable or poisonous liquids, ashes, cinders, rags or any other foreign matter or thing which would or could obstruct, damage or overload such system or sewer. Mill slops and roof water may be deposited by special permit. If a sewer is injured it shall be rebuilt in a manner satisfactory to the Council.

§ 183-8. Discharge of injurious substances into sewers; connection of existing private facilities.

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

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

The Supervisor of Maintenance shall have the power to stop and prevent from discharging into the sewer system through any drain substances which are liable to injure the sewer or obstruct the flow of the sewage. Before any old private drain or sewer is connected with the sewer system, the owner of the private drain or sewer shall prove to the satisfaction of the Supervisor that it is clean and conforms in every respect to the rules and regulations of this chapter.

§ 183-9. Trench excavations.

The house sewer trench shall be dug so as to meet the public sewer at the position of the Y-branch as located by the Supervisor. The materials thrown from the trench shall be placed so as not to obstruct and so as to cause the least inconvenience to the public. Proper barriers and lights shall be maintained on the banks of the trench to guard the public against accidents during the progress of the work. In backfilling, the earth shall be carefully rammed or flooded so as to keep the pipe in proper condition and avoid settling, and no stone shall be used in filling until there has been a depth of two (2) feet of fine earth or ground placed over the pipe[3].

§ 183-10. Strainers; substances causing obstruction or damage prohibited.

A. Exit pipes to all fixtures except water closets shall be furnished with suitable, permanently attached strainers.

B. No person shall place or suffer to be placed in any sewer opening or in the house connection or private drains connecting with any public main or lateral sewer any substance having a tendency to obstruct the free flowage of the sewers or to damage them in any way[4].

3Editor's Note: Original ~~ 36-10 through 36-18, which immediately followed this section and provided construction specifications, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

4Editor's Note: Original ~ 36-20, Violations and penalties, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 192

SEWERS

ARTICLE I
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§ 192-1. Definitions and word usage.
§ 192-2. Compliance with other laws.
§ 192-3. Unsanitary deposit of objectionable waste.
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ARTICLE II
Use of Public Sewers Required

§ 192-5. Private facilities.
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ARTICLE III
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§ 192-7. Use of private sewage disposal system; portable toilets.
§ 192-8. Permit application; fee
§ 192-9. Inspections.
§ 192-10. Construction standards.
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[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-6-1969 as Ord. No. 207 (Ch. 42 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101.
Housing standards -- See Ch. 146.
Plumbing -- See Ch. 183.
Stormwater management -- See Ch. 198.
Subdivision of land -- See Ch. 205.
Water -- See Ch. 226.

ARTICLE I
General Provisions

§ 192-1. Definitions and word usage.

A. The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except as may hereinafter be specifically provided:

ASTM -- The American Society for Testing and Materials.

BOD (denoting "biochemical oxygen demand") -- The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees centigrade (20° C.), expressed in milligrams per liter.

BUILDING DRAIN -- That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet [one point five (1.5) meters] outside the inner face of the building wall.

BUILDING SEWER -- The sewer line extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER -- A sewer receiving both surface runoff and sewage.

GARBAGE -- Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

INDUSTRIAL WASTES -- The liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

NATURAL OUTLET -- Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON -- Any individual, firm, company, agency, association, society, corporation or group.

pH -- The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE -- The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch [one and twenty-seven hundredths (1.27) centimeters] in any dimension.

PUBLIC SEWER -- A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

SANITARY SEWER -- A sewer which carries sewage and to which storm-, surface and ground waters are not intentionally admitted.

SEWAGE -- A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground-, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT -- Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS -- All facilities for collecting, pumping, treating and disposing of sewage.

SEWER -- A pipe or conduit for carrying sewage.

SLUG -- Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flows during normal operation.

STORM DRAIN (sometimes termed "storm sewer") -- A sewer which carries storm- and surface waters and drainage but excludes sewage and industrial wastes other than unpolluted cooling water.

SUPERINTENDENT -- The Superintendent of Public Works of the city or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS -- Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

WATERCOURSE -- A channel in which a flow of water occurs, either continuously or intermittently.

WPCF -- The Water Pollution Control Federation.

B. "Shall" is mandatory; "may" is permissive.

§ 192-2. Compliance with other laws. [Added 12-19-1977 by Ord. No. 251, approved 12-21-1977]

Compliance with this chapter shall not be deemed to result in or effect immunity from or compliance with any other laws, including but not limited to state and federal laws, unless it is so provided in those other laws.

§ 192-3. Unsanitary deposit of objectionable waste.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city any human or animal excrement, garbage or other objectionable waste.

§ 192-4. Discharge of untreated wastes.

It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

ARTICLE II
Use of Public Sewers Required

§ 192-5. Private facilities.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

§ 192-6. Connection to public sewer.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city is hereby required, at his or her expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety (90) days after date of official notice to do so.

ARTICLE III
Private Sewage Disposal

§ 192-7. Use of private sewage disposal system; portable toilets.

Where a public sanitary or combined sewer is not available under the provisions of Article II, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article. In addition, portable toilets featuring self-contained waste-holding tanks will be permitted on a temporary use basis on construction sites or at places of large public gatherings where existing sanitary facilities are inadequate, provided that the disposal of the contents of the holding tanks must be done in a manner meeting the prior approval of the Superintendent.

§192-8. Permit application; fee[1].

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the city, to which shall be attached the permit therefor issued by the Worcester County Health Department. The applicant shall supplement this by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee, the amount of which shall be determined by the City Council by resolution, shall be paid to the city at the time the application is filed[2].

§ 192-9. Inspections.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Superintendent.

§ 192-10. Construction standards.

The type, capacity, location and layout of, as well as the lot size for, a private sewage disposal system shall comply with all regulations of the Department of Health of the State of Maryland.

§ 192-11. Connection to public sewer; abandonment of private facilities.

At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in this Article III, a direct connection shall be made to the public

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

2Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

sewer in compliance with this chapter within sixty (60) days, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, cleaned of sludge and filled with clean bank-run gravel, dirt or other approved material.

§ 192-12. Operation and maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

§ 192-13. Additional requirements of Department of Health.

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Department of Health.

ARTICLE IV
Building Sewers and Connections

§ 192-14. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

§ 192-15. Permit classifications; applications; fees. [Amended 2-1-1971 by Ord. No. 221, approved 2-2-1971; 8-13-1973 by Ord. No. 231]

A. There shall be two (2) classes of building sewer connection permits:

(1) For residential and commercial service.

(2) For service to establishments producing industrial waste.

B. In either case, the owner or his or her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by plans, specifications or other information considered pertinent in the judgment of the Superintendent.

C. The permit and connection fees and street opening charges, in the amounts as shall be determined by the Council by resolution, shall be paid to the city at the time the application is filed and approved. [Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]

§ 192-16. Installation by city. [Amended 2-1-1971 by Ord. No. 221, approved 2-2-1971]

The city shall install all necessary building sewer lines from the sewer main to the curbline and shall make all necessary connections to the main.

§ 192-17. Separate sewer for each building; exception.

A separate and independent building sewer shall be provided for every building, provided that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

§ 192-18. Old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this chapter.

§ 192-19. Construction standards.

The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of Chapter 101, Building Construction, and Chapter 183, Plumbing, or other applicable laws and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

§ 192-20. Building sewer elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

§ 192-21. Surface runoff and groundwater.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

§ 192-22. Connection standards.

The connection of the building sewer into the public sewer shall conform to the requirements of Chapter 101, Building Construction, and Chapter 183, Plumbing, or other applicable rules and regulations of the city. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

§ 192-23. Notification of Superintendent.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his or her representative.

§ 192-24. Excavations to be guarded; restoration of disturbed public property.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

ARTICLE V
Use of the Public Sewers

§ 192-25. Prohibited discharges.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

§ 192-26. Discharge of unpolluted waters. [Amended 12-19-1977 by Ord. No. 251, approved 12-21-1977]

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet, provided that such discharge is approved as may be required by the Maryland Water Resources Administration.

§ 192-27. Prohibited waters and wastes.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

B. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

C. Any waters or wastes having a pH lower than five point five (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

§ 192-28. Wastes requiring approval of Superintendent.

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm the sewers, sewage treatment process or equipment, have an adverse effect on the receiving watercourse or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, the materials of construction of the sewers, the nature of the sewage treatment process, the capacity of the sewage treatment plant, the degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

A. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.) [sixty-five degrees centigrade (65° C.)].

B. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two and one hundred fifty degrees Fahrenheit (32° and 150° F.) [zero and sixty-five degrees centigrade (0° and 65° C.)].

C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower [seventy-six hundredths (0.76) metric] or greater shall be subject to the review and approval of the Superintendent.

D. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

E. [Amended 12-19-1977 by Ord. No. 251, approved 12-21-1977] Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials. The maximum allowable concentration in milligrams per liter (mg/l) of certain heavy metals and other materials in sewage or wastewater discharged into the sewage system shall be the following, or such lower concentrations as the Superintendent may establish:

Materials	Concentration (mg/l)
Aluminum	1.0

Arsenic	2.0
Cadmium	5.0
Chromium (hexavalent)	5.0
Copper	1.0
Cyanide	0.2
Iron	15.0
Lead	1.0
Mercury	2.0
Nickel	3.0
Zinc	5.0
Any matter requiring or having a BOD of more than	350.0
Suspended solids	350.0

F. Any waters or wastes containing phenols or other taste- or odor-producing substances in concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

H. Any waters or wastes having a pH in excess of nine point five (9.5).

I. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids, such as but not limited to fuller's earth, lime slurries and lime residues, or of dissolved solids, such as but not limited to sodium chloride and sodium sulfate.

(2) Excessive discoloration, such as but not limited to dye wastes and vegetable tanning solutions.

(3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting slugs, as defined herein.

J. Waters or wastes containing substances which are not amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

K. Discharge from any single location, source or activity of flow in excess of ten thousand (10,000) gallons in any one (1) day. [Added 12-19-1977 by Ord. No. 251, approved 12-21-1977]

§ 192-29. Powers and duties of Superintendent.

A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in ~ 192-28 of this chapter and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of ~ 192-34 of this chapter.

B. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances and laws.

§ 192-30. Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or of any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units used exclusively as such. All interceptors shall be of a type and capacity approved by the Superintendent and shall be so located as to be readily and easily accessible for cleaning and inspection.

§ 192-31. Preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

§ 192-32. Control vaults for industrial wastes.

When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

§ 192-33. Testing and sampling procedures.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

§ 192-34. Special agreements with industrial concerns. [Amended 12-19-1977 by Ord. No. 251, approved 12-21-1977]

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern, and provided that the acceptance thereof does not overload the treatment facility and result in violation of state law and regulations.

§ 192-35. Malicious destruction of sewage works; violations and penalties[3].

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any violation of this provision shall be a misdemeanor and shall be punishable as provided in the general penalty provisions of ~ 1-18 of this Code.

§ 192-36. Responsibility of discharger; sampling; records. [Added 12-19-1977 by Ord. No. 251, approved 12-21-1977]

A. Any person who discharges any water or material into the sewers or permits the discharge thereof, regardless of whether it contains any substance or possesses any characteristic enumerated in ~ 192-28, shall, at such time or times as the Superintendent may prescribe, provide to the Superintendent such information as he or she may require concerning such discharge, water or material, including but not limited to the type of activity causing or resulting in the discharge, the plant and equipment of such activity, the materials being handled, stored or processed, the quantities and constituents of its wastes and sewage and the rate, volume and regularity or variance over time and times, or periodicity, of the rate of discharge thereof and any other data or information that the city may now or hereafter be required to report to any other governmental agency or department.

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

B. Any person who proposes to discharge into the sewers any material that contains any substance or possesses any characteristic enumerated in ~ 192-28, before making or permitting such discharge, shall advise the Superintendent of his or her intention to do so and shall refrain from making or permitting such discharge unless the Superintendent shall give his or her approval thereof.

C. In his or her discretion, the Superintendent shall have the authority to require such sampling, testing or analysis as he or she may desire of any material that is proposed to be discharged or is being discharged into the sewers and to require the installation of such facilities and equipment as he or she may desire for such sampling, testing and analysis, all at the expense of the person who proposes, makes or permits the making of the discharge and performed by such person or persons as the Superintendent may designate.

D. The Superintendent shall also have the power to require the keeping and submission of records of any of the data or information mentioned herein by the person who proposes, makes or permits the making of such discharge.

§ 192-37. Duration and renewal of approval. [Amended 12-19-1977 by Ord. No. 251, approved 12-21-1977]

The Superintendent may set such period as he or she shall desire for the duration of his or her approval of any discharge into the sewers of any water or material that contains any substance or possesses any characteristic enumerated in ~ 192-28 and may establish such procedures for the continuation or renewal of his or her approval as he or she may desire. In the event that the water or material that is discharged shall differ in any significant regard from the data or information about it that has been provided to the Superintendent, the Superintendent shall have the power to evaluate and regulate the discharge thereof as if such discharge had never been approved, and the prior approval, if given, shall be deemed to be inapplicable and without any force or effect.

ARTICLE VI
Power and Authority of Inspectors

§ 192-38. Right of entry; limitations.

The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The Superintendent or his or her representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

§ 192-39. Safety rules; liability.

While performing the necessary work on private properties referred to in § 192-38, the Superintendent or duly authorized employees of the city shall observe all safety rules applicable

to the premises established by the owner, and the company shall be held harmless for injury or death to the city employees. The city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions, as required in Article V.

§ 192-40. Easements.

The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

ARTICLE VII
Charges and Billings

§ 192-41. Sewer rates and bills. [Amended 2-1-1971 by Ord. No. 221, approved 2-2-1971]

A. Minimum sewer bill. Each sewer bill shall be rendered for an amount as shall be determined by the Council by resolution, which will allow for the use or consumption of three thousand (3,000) gallons of water as determined by a reading of the owner's water meter. The foregoing notwithstanding, churches or houses of worship having and holding regularly conducted weekly religious services shall be entitled to an exemption from sewer charges to the extent of five thousand (5,000) gallons of water per month but shall pay all other applicable charges or bills. [Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]

B. Sewer rates. [Amended 5-17-1971 by Ord. No. 223, approved 6-2-1971; 7-7-1980 by Ord. No. 262, approved 7-7-1980]

(1) The sewer rates, as shall be determined by the Council by resolution, shall be applicable to all quantities of water used or consumed in excess of that allowed under the minimum bill.

(2) The above rates shall become effective upon the effective date of the resolution, and the City Manager shall make such proration of bills as shall be necessary to equitably put the new rates into full force and effect.

(3) The above rates shall not be applicable to water used for either domestic, commercial or industrial purposes where the same is not returned to the city storm or sanitary sewers, provided that a special meter is installed to the city's specifications at the expense of the owner for the purpose of metering the water not returned to the city's sewer systems.

(4) Properties utilizing private water systems pursuant to § 226-4 of Chapter 226, Water, and not measuring the amount of effluent discharged into the

sanitary sewer system by means of a sewage flow meter or other measuring device approved by the city shall pay such sewer charge or charges as shall be determined by the Council by resolution.

C. All water meters shall be read on or about the first day of the month, and each owner shall pay the amount billed on or before the 10th day of the following month[4].

D. All unpaid accounts shall be delinquent at the close of business on the 10th day of the month following the month the bill is rendered, and the sewer service may be discontinued by the city and shall not again be restored until all sums due the city have been paid in full[5].

E. Staggered meter reading and billing.

(1) Nothing in this section shall prevent the Water Department Clerk, with the consent of the City Manager, from districting or zoning the city for the purpose of staggering the reading of meters and billing for sewer service. However, no meter shall be read or owner billed for sewer service for less than a month after districting and zoning is complete unless service has been discontinued by the owner[6].

(2) In case of staggered meter reading and billing, the owner shall pay the amount billed on or before the 30th day following the period for which billed. The provisions set forth in Subsections C and D above shall also apply to this subsection in every respect as if the provisions herein had therein been specifically provided for.

F. All sewer bills or accounts shall be paid to the Water Department Clerk of Pocomoke City during the business hours of the office. The City Manager shall cause receipts to be issued for all sums paid on sewer accounts. The City Manager is authorized to adjust sewer accounts when, in his or her judgment, an error has been made in the consumer's charges[7].

G. All bills shall be sent to the property owner shown upon the city's tax assessment books. All bills not paid by the last day of the month following the month of billing shall draw interest thereafter until paid at the rate of one-half of one percent (1/2 of 1%) per month, or fraction thereof, and all such bills not so paid shall be added to the next annual tax bill of each said owner, and the City Clerk shall not accept payment for or receipt said tax bill unless the amount so assessed against said owner, with interest thereon, is included in the amount paid. The property owner may request, in writing, that the bill be sent to another person, and upon such a request the Water Department Clerk shall render all bills therefor to

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

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

6Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

7 Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

the person or persons designated until advised, in writing, to the contrary, provided that the property owner shall at all times be responsible for any such bill.

ARTICLE VIII
Violations and Penalties

§ 192-42. Notice of violation.

Any person found to be violating any provision of this ordinance, except §192-35, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

§ 192-43. Violations and penalties[8].

Any person who shall continue any violation beyond the time limit provided for in § 192-42 hereof shall be guilty of a misdemeanor and, on conviction thereof, shall be punishable as provided in the general penalty provisions of § 1-18. Each day in which any such violation shall continue shall be deemed a separate offense.

§ 192-44. Liability.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

8Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 195

SOLID WASTE

§ 195-1. Definitions.
§ 195-2. Collection by city; exceptions.
§ 195-3. Supervision of collections; regulations authorized.
§ 195-4. Accumulation restrictions; Nuisances.
§ 195-5. Container requirements.
§ 195-6. Preparations for collection.
§ 195-7. Collection practices.
§ 195-8. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-26-1968 as Ch. 17 of the 1968 Code; amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds -- See Ch. 98.
Housing standards -- See Ch. 146.
Littering -- See Ch. 160.
Nuisances -- See Ch. 169.

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§ 195-1. Definitions.

Terms used in this chapter have the following meanings:

WASTE -- Shall include the following:

A. ASHES -- The residue from the burning of wood, coal, coke or other combustible materials.

B. GARBAGE -- Waste foodstuffs or table wastes of animal or vegetable origin.

C. REFUSE -- Garden, lawn or tree trimmings and leaves.

D. RUBBISH -- The waste material from normal household living conditions and business operations, other than garbage and ashes, but not to include garden, lawn or tree trimmings, leaves or waste materials from building construction or repair. "Rubbish" includes such items as paper, rags, bottles, tin cans, crockery, excelsior and similar materials.

§ 195-2. Collection by city; exceptions. [AMENDED BY ORDINANCE NO. 411, OCT. 1, 2012]

All waste accumulated in the city shall be collected, conveyed and disposed of by the city, except as follows:

A. ~~No collections shall be made from industrial establishments, commercial establishments or any other establishments operating for a profit, other than apartment houses and boarding- or rooming houses.~~
No collections shall be made from industrial establishments, commercial establishments or any
other establishments operating for a profit, other than apartment houses, boarding houses or
rooming houses of four (4) units or less.

B. This chapter does not prohibit the actual producers of waste or the owners of premises upon which such has accumulated from personally collecting, conveying and disposing of such by private contract or otherwise if such producers or owners comply with the provisions of this chapter and with any other governing law or ordinance.

C. This chapter does not prohibit collectors of waste from outside the city from hauling such over city streets, if such collectors comply with the provisions of this chapter and with any other governing law or ordinance.

§ 195-3. Supervision of collections; regulations authorized.

All waste accumulated in the city shall be collected, conveyed or disposed of by the city under the supervision of the Superintendent of Public Works. The Superintendent shall have the authority to make regulations concerning the days of collection, type and location of waste containers and such other matters pertaining to the collection, conveyance and disposal as he or she shall find necessary and to change and modify the same after reasonable public notice, if such regulations are not contrary to the provisions hereof.

§ 195-4. Accumulation restrictions; nuisances.

A. No person shall place any waste in any street, alley or other public place or upon any private property, whether owned by such person or not, within the city unless it is in proper containers for collection or under express approval granted by the Superintendent of Public Works.

B. Any unauthorized accumulation of waste on any premises is hereby declared to be a nuisance and is prohibited.

C. No person shall cast, place, sweep or deposit anywhere within the city any waste in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer or other public place or into any occupied premises within the city.

D. No person shall bring any waste into the city from without the city for purposes of disposal.

§ 195-5. Container requirements.

A. Sanitary condition. Waste containers shall be provided by the owner, tenant, lessee or occupant of the premises and shall be maintained in good condition. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replaced on notice. Paper, cardboard and paperboard containers are prohibited. The Superintendent of Public Works may refuse collection services for failure to comply herewith.

B. Garbage. Garbage containers shall be made of metal, plastic, rubber, fiberglass or other like composition material, with suitable handles or method of lifting and tight-fitting covers, or otherwise closed, and shall be watertight. Garbage containers shall have a capacity of not more than thirty (30) gallons and shall be so constructed that the contents can be moved easily and without delay. Garbage containers shall be kept in a clean, neat and sanitary condition at all times.

C. Ashes. Ash containers shall be of the same character, size and description as garbage containers, except that only metal containers will be used for ashes, and the contents shall be cool to the touch throughout.

D. Rubbish. Rubbish containers shall be of a kind suitable for collection purposes, shall not exceed a capacity of thirty (30) gallons each and shall be fitted with handles.

E. Refuse. Refuse containers shall be of the same character, size and description as rubbish containers.

§ 195-6. Preparation for collection.

A. Tree trimmings, hedge and bush clippings and similar material shall be cut or broken in forty-inch lengths and securely tied with rope or cord in bundles not more than three (3) feet thick before being deposited for collection. ~~Large branches, trimmings and hedge and bush clippings will also be collected periodically upon published notice for disposal by chipping.~~

B. All containers shall be placed at the sidewalk area near the curbline on the days designated for garbage collection. No containers shall be permitted in such areas except on the days designated for collection, and containers must be removed by nightfall of the day of collection.

§ 195-7. Collection practices.

A. Frequency of collection and removal. Collections of all waste accumulated will be available to all residences, apartment houses of four (4) units or fewer and boarding- and rooming houses twice each week, except for holidays, inclement weather or to meet other city requirements.

B. Limitation on quantity. Four (4) containers or fewer will be collected on each collection day from any single dwelling or other establishment served by the city waste collection, except that four (4) additional bags will be collected during the leaf-falling season.

C. Contagious disease refuse or rubbish. The removal of wearing apparel, bedding or other rubbish or refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of an officer, agent or employee of the State Department of Health. Such rubbish shall not be placed in containers for regular collection.

D. Inflammable or explosive rubbish or refuse. Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the Superintendent of Public Works at the expense of the owner or possessor thereof.

E. Commercial and industrial establishments. Establishments not served by the city garbage collection shall provide containers as provided in ~ 195-5, but without regard to provisions as to size or number being collected. Commercial establishments shall have waste removed at least twice a week. Restaurants shall have garbage removed at least four (4) times a week.

F. Large branches, trimmings and hedge and bush clippings will be collected for disposal by chipping on the second Wednesday of the month or at such other times as are published. Such items shall not be placed at the curb or roadside or alley before six p.m. of the Monday before the scheduled bulk collection. Branches with diameter in excess of eight (8) inches shall not be accepted.

G. Other bulk items, such as ordinary household furniture and appliances, will be collected for disposal on the second Wednesday of the month or at such other times as are published. However, no more than ten (10) items will be accepted and such items shall not be placed at the curb or roadside or alley before six p.m. of the Monday before the scheduled bulk collection. Items not acceptable for collection include automobile parts, tires, construction materials, dangerous or hazardous materials, and other items which may be added to this list or published in the future.

§ 195-8. Violations and penalties.

~~Any person who violates any provision of this chapter shall, upon conviction thereof, be guilty of a municipal infraction and subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time1.~~

Any violation of this chapter shall constitute a municipal infraction, subject to fines as provided in the City Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time. Citations and proceedings involving municipal infractions shall be governed by Article 23A, Section 3(b) of the Annotated Code of Maryland, 1957, and all amendments thereto.

1Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 198

STORMWATER MANAGEMENT

§ 198-1. Purpose; authority; applicability; enforcement.
§ 198-2. Definatons.
§ 198-3. Stormwater management required.
§ 198-4. Exemptions.
§ 198-5. Waivers.
§ 198-6. Variances.
§ 198-7. Review and approval of stormwater management plan or waiver.
§ 198-8. Content of stormwater management plan.
§ 198-9. Permit requirements.
§ 198-10. Permit fee.
§ 198-11. Permit suspension or revocation.
§ 198-12. Conditions imposed on permit.
§ 198-13. Minimum stormwater control requirements.
§ 198-14. Stormwater management practices.
§ 198-15. Specific design criteria; easements; publications.
§ 198-16. Performance bond.
§ 198-17. Inspection schedule and reports.
§ 198-18. Inspections during construction.
§ 198-19. Final inspection; certification; reports.
§ 198-20. Periodic inspections; reports.
§ 198-21. Inspection and maintenance agreement.
§ 198-22. Maintenance.
§ 198-23. Appeals.
§ 198-24. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 6-18-1984 as Ord. No. 278, approved 6-21-1984 (Ch. 43 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 101.
Floodplain management -- See Ch. 135.
Grading and sediment control -- See Ch. 140.
Subdivision of land -- See Ch. 205.

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§ 198-1. Purpose; authority; applicability; enforcement.

A. The purpose of this chapter is to protect, maintain and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff. Proper management of stormwater runoff will minimize damage to public and private property, reduce the effects of development on land and stream channel erosion, assist in the attainment and maintenance of water quality standards, reduce local flooding and maintain, after development, as nearly as possible, the predevelopment runoff characteristics.

B. The provisions of this chapter, pursuant to ~ 4-202 of the Environment Article of the Annotated Code of Maryland, are adopted under the authority of the Pocomoke City Charter and shall apply to all development occurring within the incorporated area of Pocomoke City. The application of this chapter and the

provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute. The City Manager shall be responsible for the coordination and enforcement of the provisions of this chapter[1].

§ 198-2. Definitions.

For the purposes of this chapter, the following definitions describe the meanings of the terms used in this chapter:

ADVERSE IMPACT -- Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses, which is or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability or which unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

AGRICULTURAL LAND MANAGEMENT PRACTICES -- Those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

APPLICANT -- Any person, firm or governmental agency which executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

AQUIFER -- A porous, water-bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

CLEARING -- The removal of trees and brush from the land, but shall not include the ordinary mowing of grass.

DETENTION STRUCTURE -- A permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.

DEVELOP LAND -- To change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial or institutional construction or alteration.

DRAINAGE AREA -- That area contributing runoff to a single point, measured in a horizontal plane, which is enclosed by a ridge line.

EASEMENT -- A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes and which must be included in the conveyance of land affected by such easement.

EXEMPTION -- Those land development activities that are not subject to the stormwater management requirements contained in this chapter.

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

FLOW ATTENUATION -- Prolonging the flow time of runoff to reduce the peak discharge.

GRADING -- Any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.

INFILTRATION -- The passage or movement of water into the soil surface.

OFF-SITE STORMWATER MANAGEMENT -- The design and construction of systems necessary to control stormwater from more than one (1) development.

ON-SITE STORMWATER MANAGEMENT -- The design and construction of systems necessary to control stormwater within an immediate development.

POROUS PAVING -- Open, graded asphaltic or reticular concrete or other material which allows water to pass through it.

RETENTION STRUCTURE -- A permanent structure that provides for the storage of runoff by means of a permanent pool of water.

SEDIMENT -- Soils or other surficial materials transported or deposited by the action of wind, water, ice or gravity as a product of erosion.

SITE -- Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one (1) ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision or project.

STABILIZATION -- The prevention of soil movement by any of various vegetative and/or structural means.

STORMWATER MANAGEMENT:

A. For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land.

B. For qualitative control, a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

STORMWATER MANAGEMENT PLAN -- A set of drawings or other documents submitted by a person as a prerequisite to obtaining stormwater management approval which contain all of the information and specifications pertaining to stormwater management.

STRIPPING -- Any activity which removes the vegetative surface cover, including tree removal, clearing, grubbing and storage or removal of topsoil.

VARIANCE -- The modification of the minimum stormwater management requirements for specific circumstances such that strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of the

chapter.

WAIVER -- The relinquishment from stormwater management requirements by the municipality for a specific development, on a case-by-case review basis.

WATERCOURSE -- Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any area adjacent thereto which is subject to inundation by reason of overflow or floodwater.

WATERSHED -- The total drainage area contributing runoff to a single point.

WETLANDS -- An area that has saturated soils or periodic high groundwater levels and vegetation adapted to wet conditions and periodic flooding.

§ 198-3. Stormwater management required.

No person shall develop any land for residential, commercial, industrial or institutional uses without having provided for appropriate stormwater management measures that control or manage runoff from such developments, except as provided within ~ 198-4.

§ 198-4. Exemptions.

The following development activities are exempt from the provisions of this chapter and the requirements of providing stormwater management:

A. Agricultural land management activities.

B. Additions or modifications to existing single-family detached residential structures.

C. Developments that do not disturb over five thousand (5,000) square feet of land area.

D. Land development activities which the Water Resources Administration determines will be regulated under specific state laws which provide for managing stormwater runoff.

E. Residential developments consisting of single-family houses, each on a lot of two (2) acres or greater.

§ 198-5. Waivers.

The municipality may grant a waiver of the stormwater management requirements for individual developments, provided that a written request is submitted by the applicant containing descriptions, drawings and any other information that is necessary to evaluate the proposed development. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions or modifications to a development receiving a waiver. Eligibility for a waiver shall be determined if the applicant can

conclusively demonstrate that:

A. The proposed development will not generate more than a ten-percent increase in the two-year predevelopment peak discharge rate and will not cause an adverse impact on the receiving wetland, watercourse or water body;

B. A site is completely surrounded by existing developed areas which are served by an existing network of public storm drainage systems of adequate capacity to accommodate the runoff from the additional development; or

C. Provisions to control direct outfall to tidewater are provided when the first inch of rainfall is managed according to infiltration standards and specifications promulgated by the Water Resources Administration.

§ 198-6. Variances.

The Mayor and Council may grant a written variance from any requirement of ~~ 198-13 through 198-15 if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of this chapter will result in unnecessary hardship and not fulfill the intent of the chapter. A written request for a variance shall be provided to the City Manager and shall state the specific variances sought and reasons for their granting. The Mayor and Council shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the person developing the land.

§ 198-7. Review and approval of stormwater management plan or waiver.

A. A stormwater management plan or an application for a waiver shall be submitted to the City Manager by the developer for review and approval for any proposed development, unless otherwise exempted. The stormwater management plan shall contain supporting computations, drawings and sufficient information describing the manner, location and type of measures in which stormwater runoff will be managed from the entire development. The City Manager shall review the plan to determine compliance with the requirements of this chapter prior to approval. The plan shall serve as the basis for all subsequent construction.

B. Notification of approval or reasons for the disapproval or modification shall be given to the applicant within thirty (30) days after submission of the completed stormwater plan. If a decision is not made within thirty (30) days, the applicant shall be informed of the status of the review process and the anticipated completion date. The stormwater management plan shall not be considered approved without the inclusion of the signature and date of signature of the City Manager on the plan.

§ 198-8. Content of stormwater management plan.

A. The developer is responsible for submitting a stormwater management plan which meets the design requirements provided by this chapter. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources and

the effectiveness and acceptability of measures proposed for managing stormwater runoff. The developer or builder shall certify on the drawings that all clearing, grading, drainage, construction and development shall be conducted in strict accordance with the plan. The minimum information submitted for support of a stormwater management plan or application for a waiver shall be as follows:

(1) Site characteristics:

(a) A topography survey showing existing and proposed contours, including the area necessary to determine downstream analysis for the proposed stormwater management facility.

(b) Soils investigation, including borings for construction of small ponds and infiltration practices.

(c) Description of all watercourses, impoundments and wetlands on or adjacent to the site or into which stormwater flows.

(d) Delineation of one-hundred-year floodplains, if applicable.

(e) Structure classification (SCS Pond Standard 378).

(2) Computations:

(a) Hydrology.

(b) Hydraulic.

(c) Structural.

B. In addition to the information listed above, stormwater management design plans shall include:

(1) Stormwater management plans:

(a) A vicinity map.

(b) A drainage area map showing the watershed boundaries, drainage area and stormwater flow paths.

(c) Proposed improvements, including location of buildings or other structures, impervious surfaces and storm drainage facilities, if applicable.

(d) The location of utilities.

(e) Structural details for all components of the proposed drainage systems and stormwater management facilities.

(f) Timing schedules and sequence of development clearing, including stripping, rough grading, construction, final grading and vegetative stabilization.

(g) Maintenance schedule.

(h) Notes on drawings specifying materials to be used.

(i) Construction specifications.

(j) Location of easements.

(2) An estimate of stormwater management construction cost.

(3) Other information as required.

§ 198-9. Permit requirements.

A grading or building permit may not be issued for any parcel or lot unless a stormwater management plan has been approved or waived by the municipality as meeting all the requirements of this chapter. Where appropriate, a building permit may not be issued without:

A. Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way.

B. A recorded stormwater management maintenance agreement.

C. A performance bond.

§ 198-10. Permit fee.

A nonrefundable permit fee will be collected at the time the stormwater management plan or application for waiver is submitted. The permit fee will provide for the cost of plan review, administration and management of the permitting process and inspection of all projects subject to this chapter. A permit fee schedule shall be established by the Mayor and Council based upon the relative complexity of the project and may be amended from time to time.

§ 198-11. Permit suspension or revocation.

Any grading or building permit issued by the City Manager may be suspended or revoked after written notice is given to the permittee for any of the following reasons:

A. Any violation(s) of the conditions of the stormwater management plan approval.

B. Changes in site runoff characteristics upon which a waiver was granted.

C. Construction is not in accordance with the approved plans.

D. Noncompliance with a correction notice(s) or stop-work order(s) issued for the construction of the stormwater management facility.

E. An immediate danger exists in a downstream area in the opinion of the City Manager.

§ 198-12. Conditions imposed on permit.

In granting the plan approval, the City Manager may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this chapter and the preservation of the public health and safety.

§ 198-13. Minimum stormwater control requirements.

A. Option 1 [Counties identified in COMAR Stormwater Management 08.05.05.06A(1)]. The minimum stormwater control requirements shall require that all developments provide management measures necessary to maintain the postdevelopment peak discharge for a twenty-four-hour, two-year-frequency storm event at a level that is equal to or less than the twenty-four-hour, two-year predevelopment peak discharge rate, through stormwater management practices that control the volume, timing and rate of flows. Where runoff is discharged into an off-site stormwater management facility, the control requirements and procedures shall be in accordance with ~ 198-15C.

B. Option 2 [Counties identified in COMAR Stormwater Management 08.05.05.06A(2)].

(1) The minimum stormwater control requirements shall require that all developments provide management measures necessary to maintain the postdevelopment peak discharges for a twenty-four-hour, two- and ten-year-frequency storm event at a level that is equal to or less than the respective twenty-four-hour, two- and ten-year predevelopment peak discharge rates, through stormwater management practices that control the volume, timing and rate of flows. Where runoff is discharged into an off-site stormwater management facility, the control requirements and procedures shall be in accordance with ~ 198-15C.

(2) Stormwater management and development plans, where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Water Resources Administration in accordance with the Flood Hazard Management Act of 1976 (~ 5-801 et seq. of the Environment Article of the Annotated Code of Maryland)2.

§ 198-14. Stormwater management practices.

A. Stormwater management measures shall be required to satisfy the minimum control requirements. The stormwater management practices to be utilized in

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

developing a stormwater management plan shall be according to the following order of preference:

(1) Infiltration of runoff on site.

(2) Flow attenuation by use of open vegetated swales and natural depressions.

(3) Stormwater retention structures.

(4) Stormwater detention structures.

B. Infiltration practices shall be utilized to reduce volume increases to the extent possible, as determined in accordance with infiltration standards and specifications established by the Water Resources Administration. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the person developing the land for rejecting each practice based on site conditions.

§ 198-15. Specific design criteria; easements; publications.

A. Infiltration systems shall be designed in accordance with standards and specifications that are developed or approved by the Water Resources Administration and shall meet the following requirements:

(1) Infiltration systems greater than three (3) feet deep shall be located at least ten (10) feet from basement walls.

(2) Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of one hundred (100) feet from any water supply well.

(3) Infiltration systems may not receive runoff until the entire contributory drainage area to the infiltration system has received final stabilization.

(4) The stormwater management facility design shall provide an overflow system with measures to provide a nonerosive velocity of flow along its length and at the outfall.

B. Retention and detention ponds shall be designed and constructed in accordance with the criteria of the Soil Conservation Service and shall include the following items:

(1) Velocity dissipation devices shall be placed at the outfall of all detention or retention structures and along the length of any outfall channel as necessary to provide a nonerosive velocity of flow from the structure to a watercourse.

(2) The developer shall submit to the City Manager an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development

upon a dam, highway, structure or natural point of restricted stream flow, established with the concurrence of the municipality, downstream of a tributary of the following size:

(a) The first downstream tributary whose drainage area equals or exceeds the contributing area to the pond; or

(b) The first downstream tributary whose peak discharge exceeds the largest designed release rate of the pond.

(3) The designed release rate of the structure shall be modified if any increase in flooding or stream channel erosion would result at the downstream dam, highway, structure or natural point of restricted stream flow. The release rate of the structure shall:

(a) Be reduced to a level that will prevent any increase in flooding or stream channel erosion at the downstream control point.

(b) Be not less than the one-year predevelopment peak discharge rate.

(c) Meet the requirements established in § 198-13.

(4) Small pond approval shall be obtained from the Soil Conservation District or the Water Resources Administration pursuant to the Environment Article of the Annotated Code of Maryland, § 5-503(b)3.

C. Off-site structures to be considered:

(1) Shall have a contributory drainage area not in excess of four hundred (400) acres, unless, on a case-by-case basis, a larger drainage area is approved by the Water Resources Administration.

(2) Shall provide for a permanent pool of water or provide for a twenty-four-hour detention period for the one-year-frequency storm peak discharge.

(3) Shall manage the increase in peak discharge(s) for the two- (and ten-) year-frequency storm event(s).

(4) May not be located so as to discharge to Class III Natural Trout Waters identified in COMAR 10.50.01.02I, unless authorized by the Water Resources Administration in permits issued pursuant to the Environment Article of the Annotated Code of Maryland, § 5-5034.

D. The predevelopment peak discharge rate shall be computed assuming that all land uses in the site to be developed are in good hydrologic condition.

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

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

E. The developer shall give consideration to incorporating the use of natural topography and land cover, such as wetlands, ponds, natural swales and depressions, as they exist prior to development to the degree that they can accommodate the additional flow of water.

F. The municipality shall give preference to the use of swales in place of the traditional use of curbs and gutters based on a case-by-case review of stormwater management plans.

G. Where a stormwater management plan involves the direction of some or all runoff of the site, it shall be the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any such rights.

H. The basic design criteria, methodologies and construction specifications, subject to the approval of the municipality and the Water Resources Administration, shall be those of the Soil Conservation Service, generally found in the most current edition of the following publications or subsequent revisions:

(1) Urban Hydrology for Small Watersheds, Technical Release No. 55, January 1975.

(2) Stormwater Management Pond Design Manual, Maryland Association of Soil Conservation Districts, June 1975.

(3) Soil Conservation Service Engineering Field Manual, latest edition, as applicable.

(4) Soil Conservation Service Standard and Specification for Ponds, Specification No. 378, July 1981.

§ 198-16. Performance bond.

A. The municipality shall require from the developer a surety or cash bond, irrevocable letter of credit or other means of security acceptable to the municipality prior to the issuance of any building and/or grading permit for construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all the provisions of this chapter and other applicable laws and regulations and any time limitations.

B. The bond shall not be fully released without a final inspection of completed work by the municipality and submission of as-built plans and certification of completion by the municipality of the stormwater management facility as being in compliance with the approved plan and the provisions of this chapter. A provision may be made for partial release of the amount of the bond pro rata upon completion and acceptance of the various stages of development as specifically delineated, described and scheduled on the required plans and specifications. The

developer shall notify the municipality upon completion of each stage that is ready for inspection.

§ 198-17. Inspection schedule and reports.

A. Prior to approval of a stormwater management plan, the developer will submit to the municipality a proposed inspection and construction control schedule. The City Manager or his or her authorized representative shall conduct inspections and file reports for periodic inspections necessary during construction of stormwater management systems to ensure compliance with the approved plans.

B. No work shall proceed until the City Manager inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.

C. Any portion of the work which does not comply will be promptly corrected by the developer, after written notice from the City Manager. The notice shall set forth the nature of corrections required and the time within which corrections will be made.

D. The developer shall notify the City Manager before commencing any work in conjunction with the stormwater management plan and upon completion of the project, when a final inspection will be conducted.

§ 198-18. Inspections during construction.

After commencing initial site operations, regular inspections shall be made at the following specified stages of construction:

A. Infiltration systems: at the commencement of, during and upon completion of construction.

B. Porous paving infiltration systems: at the following stages so as to ensure proper placement and allow for infiltration into the subgrade:

(1) Upon completion of stripping, stockpiling and the construction of temporary sediment control and drainage facilities.

(2) Upon completion of subgrade section.

(3) Upon completion of reservoir base course.

(4) Upon completion of the top crushed stone course.

(5) Throughout the placement of the porous asphaltic concrete surface course to ensure proper laying temperatures and compaction.

C. Flow-attenuation devices, such as open vegetated swales: upon completion of construction.

D. Retention and detention structures: at the following stages:

(1) Upon completion of excavation to subfoundation and, where required, installation of structural supports or reinforcement for structures, including but not limited to:

(a) Core trenches for structural embankments.

(b) Inlet-outlet structures and antiseep structures and watertight connectors on pipes.

(c) Trenches for enclosed storm drainage facilities.

(2) During placement of structural fill and concrete and installation of piping and catch basins.

(3) During backfill of foundations and trenches.

(4) During embankment construction.

(5) Upon completion of final grading and establishment of permanent stabilization.

§ 198-19. Final inspection; certification; reports.

A final inspection shall be conducted by the City Manager upon completion of the stormwater management facility to determine if the completed work is constructed in accordance with the approved plan and this chapter. As-built certification by a registered professional engineer licensed in Maryland is also required to certify that the facility has been constructed as shown on the as-built plans and meets approved plans and specifications. The developer will receive written notification of the results of the final inspection. The municipality shall maintain a permanent file of inspection reports.

§ 198-20. Periodic inspections; reports.

A. Preventive maintenance shall be ensured through inspection of all infiltration systems and retention or detention structures by the municipality. The inspection shall occur during the first year of operation and at least once every three (3) years thereafter.

B. Inspection reports shall be maintained by the municipality on all retention and detention structures and shall include the following:

(1) The date of inspection.

(2) The name of the inspector.

(3) The condition of:

(a) Vegetation.

(b) Fences.

(c) Spillways.

(d) Embankments.

(e) Reservoir areas.

(f) Outlet channels.

(g) Underground drainage.

(h) Sediment load.

(i) Any other item that could affect the proper function of the stormwater management system.

(4) A description of needed maintenance.

C. If, after an inspection by the City Manager, the condition of a stormwater management facility presents an immediate danger to the public health or safety because of an unsafe condition or improper maintenance, the municipality shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the county/municipality shall be assessed against the owner(s), as provided in § 198-21.

§ 198-21. Inspection and maintenance agreement.

A. Prior to the issuance of any building permit for which stormwater management is required, the municipality shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by the private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspection by the City Manager or his or her authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provisions established.

B. The agreement shall be recorded by the applicant and/or owner in the land records of the county/municipality.

C. The agreement shall also provide that if after notice by the City Manager to correct a violation requiring maintenance work satisfactory corrections are not made by the owner(s) within a reasonable period of time [thirty (30) days maximum], the municipality may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties, and there shall be a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the county/municipality.

§ 198-22. Maintenance.

A. The owner of the property on which work has been done pursuant to this chapter for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures and other protective devices. Such repairs or restorations and maintenance shall be in accordance with approved plans.

B. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion and who shall perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.

§ 198-23. Appeals.

Any person aggrieved by the action of any official charged with the enforcement of this chapter, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation or an alleged failure to properly enforce the chapter in regard to a specific application, shall have the right to appeal the action to the Mayor and Council. The appeal shall be filed, in writing, within thirty (30) days of the date of official transmittal of the final decision or determination to the applicant, shall state clearly the grounds on which the appeal is based and shall be processed expeditiously.

§ 198-24. Violations and penalties.

Any person convicted of violating the provisions this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than five thousand dollars ($5,000.) or imprisonment not exceeding one (1) year, or both, for each and every violation, with costs imposed in the discretion of the court. Each day that the violation continues shall be a separate offense. In addition thereto, the municipality may institute injunctive, mandamus or other appropriate action or proceedings at law or equity for the enforcement of this chapter or to correct violations of this chapter, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent, injunctions or mandamus or other appropriate forms of remedy or relief.

Chapter 201

STREETS AND SIDEWALKS

ARTICLE I
General Regulations

§ 201-1. Definitions.
§ 201-2. Deposit of solid waste.
§ 201-3. Discharge of liquid substances.
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§ 201-5. Open burning; deposit of ashes.
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§ 201-7. Destruction of markers and other public property.
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§ 201-18. Public ways.
§ 201-19. Sidewalks, curbs, and gutters
§ 201-20. Responsibility of abutting property owners.
§ 201-21. Work done at request and expense of owner.
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Snow and Ice Removal

§ 201-29. Removal from sidewalks required.
§ 201-30. Violations and penalties.
§ 201-31. Collection of costs.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-6-1969 as Ord. No. 206 (Ch. 44 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Parades -- See Ch. 112.
Littering -- See Ch. 160.
Subdivision of land -- See Ch. 205.
Vehicles and traffic -- See Ch. 220.

ARTICLE I
General Regulations

§ 201-1. Definitions.

The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except as hereinafter specifically provided:

> SIDEWALK -- Any portion of a street between the curbline, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.
>
> STREET -- Includes public avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other thoroughfares in the city and shall mean the entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Council.

§ 201-2. Deposit of solid waste.

It shall be unlawful for any person to cast, throw or sweep into any of the streets, public alleys or sidewalks within the corporate limits of the city any trash, refuse, leaves or sweepings.

§ 201-3. Discharge of liquid substances.

It shall be unlawful for the owner or tenant of any building or lot in the city to permit any wastewater, slop or liquid substance of any kind, except rainwater, to run or flow from any building or lot into the streets, gutters or sidewalks of the city. It shall be unlawful in business and industrially zoned districts to permit any wastewater, including rainwater, to run or flow from any building across any sidewalk of the city.

§ 201-4. Obstructions.

No person shall place or allow to remain in or upon or over any sidewalk or street within the city any box, crate, barrel, carton, bricks, logs, lumber, lime, cement or other building material or anything else which might obstruct the free passage along and upon the sidewalk or street or which may make the street or sidewalk unsightly or dangerous to the public health or safety without first obtaining from the Council a permit to place and maintain the obstruction.

§ 201-5. Open burning; deposit of ashes.

No person shall burn any paper or other refuse matter or place coal ashes or any waste materials on any sidewalk or street bed of the city.

§ 201-6. Removal of barricades.

No person shall move, remove, tear down, destroy or carry away any barricade or obstruction that has been placed upon or across any street or sidewalk under or at the direction of the City Manager or Council for the purpose of preventing or regulating traffic on such street or sidewalk.

~ 201-7. Destruction of markers and other public property.

It shall be unlawful for any person to molest, destroy, damage, mutilate or carry away any stake, post, stone or pin placed in any street or sidewalk for the purpose of indicating the grade thereof or any lantern, street designation, road marker or any part of any public lamp.

§ 201-8. Signs and banners.

It shall be unlawful for any person to permit or cause any sign or board to project over any sidewalk or any flag, banner or any other manner of display to be stretched across any of the streets of the city without first securing a permit therefor from the City Manager.

§ 201-9. Placement of certain materials prohibited.

It shall be unlawful for any person, without the permission, in writing, of the Council, to pave or cover with any material any parking space or the space between the sidewalk and curb, or any part thereof, or place upon any sidewalk in any manner whatever any letters or advertising device.

§ 201-10. Visibility at intersections.

As an aid to freer, safe movement of vehicles at and near street intersections and in order to promote more adequate protection for the safety of children, pedestrians and operators of vehicles and for property, for proposed construction hereafter:

A. There shall be limitations on the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, construction and plantings in all districts where front yards are required on corner lots.

B. Such barriers to clear, unobstructed vision at corners of intersecting streets shall be limited to a height of not over three (3) feet above the established elevation of the nearest curb for a distance of thirty (30) feet along both the front and side lot lines measured from the point of intersection of said intersecting lot lines1

[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

C. Within the isosceles triangle formed as required in Subsection B hereof by connecting the ends of the respective thirty-foot distances, all the fixtures, construction, hedges, shrubbery and other plantings shall be limited to a height not over three (3) feet above the elevation of the curb level at said intersecting streets2

D. Within said triangle, the ground elevation of such front yards shall not exceed three (3) feet above established curb elevation at said intersecting streets.

E. Any barriers to clear, unobstructed vision within said triangle validly existing before the effective date of this ~ 201-10 may be removed by use of the condemnation power provided in ~ C-94 of the City Charter or by any other lawful means selected by the Council.

§ 201-11. Shade trees.

It shall be unlawful for any person to suffer or permit the limbs or foliage of any shade tree on his or her property to extend over any of the streets, alleys or sidewalks of the city at a height less than ten (10) feet from the ground.

§ 201-12. Utility connections.

A. All owners of property abutting upon a street, alley or other public way of the city which is about to be constructed, paved or re-paved, made, changed or repaired, to which property water, gas and sewer and any and all necessary underground conduits, pipes and connections have not been made, shall lay or place such water, gas, sewer and any and all necessary conduits, pipes and connections within thirty (30) days after having received written notice from the Superintendent of Public Works to do so.

B. Upon failure to comply with the written notice within thirty (30) days from the receipt thereof, the Superintendent of Public Works is hereby authorized and directed to perform such work and charge the cost of the same to the property. Such costs shall constitute a lien on the property, shall draw interest after thirty (30) days at the rate of one-half of one percent (½ of 1%) per month or fraction thereof and shall be collectible in the same manner as are other city taxes.

§ 201-13. Bicycling, skating and riding of horses.

A. It shall be unlawful for any person or persons to ride a bicycle or skate upon any sidewalk in any business or industrial district in the city.

B. It shall be unlawful for any person or persons to ride any horse or pony upon any sidewalk in the city.

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[4] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 201-14. Awnings.

It shall be unlawful for the owner or tenant of any building to erect or allow to remain on the building over any sidewalk any awning or covering of any description, whether movable or immovable, the bottom or lowest part of which is less than seven (7) feet above the sidewalk.

§ 201-15. Throwing or playing with balls or missiles.

It shall be unlawful for any person to throw or play with a ball or missile of any description in any street of the city.

§ 201-16. Violations and penalties3

Any person who violates any provision of this Article for which a penalty is not otherwise specified shall, upon conviction thereof, be guilty of a municipal infraction and subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time4

§ 201-17. Shopping carts; violations and penalties. [Added 11-20-1989 by Ord. No. 305]

A. No person shall abandon any shopping cart within the city, and no person shall leave any shopping cart at any place within the city for such time and under such circumstances as to cause such shopping cart reasonably to appear to have been abandoned.

B. No person shall remove any shopping cart from the store owner's premises or parking lot within the city without the store owner's written permission.

C. A store owner having shopping carts within the city for the use of his or her customers shall conspicuously post such signs as may be required by the City Manager to advise his or her customers that it is unlawful to remove the shopping carts from the store owner's premises and parking lot and of the penalties therefor.

D. Any violation of this section shall constitute a municipal infraction, subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time5

ARTICLE II

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[3] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[4] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

[5] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office. Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Construction and Maintenance

§ 201-18. Public ways.

The City Manager, by and with the consent of the Council, shall have the power to:

A. Establish and change from time to time the grade lines, width and construction materials of any public way or part thereof.

B. Grade, lay out, open, extend and make new public ways.

C. Grade, straighten, widen, alter, improve or close any existing public way or part thereof.

D. Pave, surface, re-pave or resurface any public way or part thereof.

§ 201-19. Sidewalks, curbs and gutters.

The City Manager, by and with the consent of the Council, shall have the power to:

A. Establish and change from time to time the grade lines, width and construction materials of any sidewalk, curb or gutter or part thereof.

B. Grade, lay out, construct, reconstruct, pave, re-pave, repair, extend or otherwise alter the sidewalks along any public way or part thereof.

C. Install, repair and maintain curbs and/or gutters along any public way or part thereof.

D. Assess the cost of any projects under this section on the abutting property owners in the manner provided in ~ 201-21 of this Article.

§ 201-20. Responsibility of abutting property owners.

A. The City Manager, by and with the consent of the Council, shall have the power to require and order the owner of any property abutting on any public way to perform any projects under § 201-19 of this chapter at the owner's expense and according to plans and specifications adopted by resolution of the Council and on file with the Department of Public Works. If, after due notice and hearing, the owner fails to comply with the order within a reasonable time, the city may do the work, and the expenses thereof shall be a lien on the property and shall draw interest after thirty (30) days at the rate to be determined by the Council and shall be collectible in the same manner as are other city taxes. [Amended 10-21-1985 by Ord. No. 286, approved 10-25-1986]

B. An abutting property owner constructing a new building or substantially improving an old building upon his or her property shall be required, at his or her own expense, to provide sidewalks, curbs and gutters meeting the plans and specifications adopted by the Council; provided, however, that exceptions may be granted in special cases wherein the Council determines that the public interest

will not be served by requiring strict adherence to the requirements of this section. In no case shall any occupancy permit required by this Code be issued if there has not been compliance with this section.

§ 201-21. Work done at request and expense of owner.

A. Whenever the owner of any property situated along any street, highway or alley of the city shall request the Department of Public Works, in writing, to set the curb, lay the gutter or pavement, raise the same to grade or repair the same in front of such property, it shall be lawful for the Department of Public Works immediately to set the curb, lay the gutter or pavement, bring the same to grade or repair the same, as the case may be, in front of such property, the actual cost of such work to become a lien upon the property from the time of the conclusion of the work and to be collected as other city taxes are collected. Such cost will include the overhead expenses involved.

B. Each property owner, before the Department of Public Works shall commence the work in question, shall sign a paper of the following tenor:

"I hereby request the Department of Public Works to ..... waiving all service of notice and agreeing that the actual cost of such work shall become a lien upon the property from the date of the completion of the work, to be collected as other city taxes are collected, as fully and to the same extent as if such work had been regularly ordered done by the Council and all proceedings fully had in relation thereto by the Department of Public Works as now required by existing ordinances."

§ 201-22. Assessment of costs; notices; hearings; appeals.

A. Apportionment of costs. The cost of the work being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Council.

B. Limitation on amount assessed. The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the city and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five percent (25%) of the fair cash market value of the property, after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

C. Classes of property. When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

D. Ratification of charges; hearing. Before any charge is levied, it shall be ratified by the Council. The City Clerk shall cause notice to be given stating the nature of the proposed project or improvement and the place and time at which all persons interested, or their agents or attorneys, may appear before the Council and be

heard concerning the proposed special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation of the city. The City Clerk shall present at the hearing a certification of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copies shall not invalidate the proceedings. The date of hearing shall be set at least ten (10) days and not more than thirty (30) days after the City Clerk shall have completed publication and service of notice as provided in this section.

E. Appeal. Any interested persons feeling aggrieved by the ratification of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for Worcester County within ten (10) days after the final ratification of any assessment by the Council.

F. Lien for unpaid charges. All charges, until paid, shall constitute liens on the property, shall draw interest after thirty (30) days at the rate to be determined by the Council and shall be collectible as are other city taxes. [Amended 10-21-1985 by Ord. No. 286, approved 10-25-1985]

G. Payment and installments. Special assessments may be made payable in annual or more frequent installments over such period of time and in such manner as the Council may decide.

H. Billing and collection. All special assessments levied under this section shall be billed and collected by the City Clerk.

§ 201-23. Compliance with plans and specifications; violations and penalties.

No public way, sidewalk, curb or gutter shall be graded or the grade changed, nor shall any other work be done with respect thereto, except in accordance with the plans and specifications adopted by the Council and on file with the Department of Public Works. Any violation of this section shall be a municipal infraction and shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time6 and, in addition, the violator may be required to restore the public way, sidewalk, curb or gutter to its original condition at his or her own expense.

Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

ARTICLE III
Excavations

§ 201-24. Permit required.

Any person desiring to dig up, tear up, destroy or repair any of the streets, alleys or other public ways of the city shall first obtain a written permit from the City Manager to do so. Such permit shall prescribe the situs, manner and duration of excavation.

§ 201-25. Permit application; fee. [Amended 11-5-1979 by Ord. No. 259, approved 11-8-1979; 7-7-1980 by Ord. No. 262, approved 7-7-1987]

A. All applications for permits to dig up, tear up or disturb any street, alley or other public way in the city for the purpose of laying pipes of any kind, repairing the same or for any purpose whatsoever shall be in writing. They shall be submitted to the Superintendent of Public Works. Applications shall be signed by the person seeking the permit. The permit application shall state the street, alley or other public way to be dug up or repaired, the time for which such permit is desired and the admission of the financial responsibility of the applicant to the city for the complete restoration of the street, alley or other public way to be dug up, torn up or repaired.

B. Fees. A fee, in the amount as shall be determined by Council by resolution, shall be charged for each permit issued.

§ 201-26. Restoration costs; bond.

A. Whenever any person shall receive a permit to dig up, tear up or repair any street, alley or other public way in the city, the person receiving such permit shall obligate himself or herself to pay to the city the sum of money equal to the cost of a complete restoration of the street, alley or other public way of the city so dug up, torn up or repaired. Such complete restoration of the street, alley or other public way shall be undertaken and completed by the Department of Public Works at the expense of the permittee, in accordance with standards established by the city.

B. The Superintendent of Public Works, at his or her discretion, may require any applicant to furnish a good and sufficient indemnity bond to indemnify the city against loss or any default or negligence of such applicant in the exercise of the activities authorized by any such permit or for any default in payment of the costs of restoration.

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

§ 201-27. Safety measures.

Any person who has obtained permission to dig up or disturb any of the streets, alleys or other public ways of the city is required to take all proper measures to assure the safety of passing vehicles and pedestrians from loss of life or injury to person or property by the erection of a fence or barrier by day and, in addition thereto, by displaying one (1) or more lanterns at night at the portion or portions left open and also at every street crossing on the line of work when the same may be left open.

§ 201-28. Violations and penalties.

It shall be unlawful for any person to violate the terms and conditions of any permit issued pursuant to this Article. Any person convicted of any such violation shall be guilty of a municipal infraction and shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time8

ARTICLE IV
Snow and Ice Removal

§ 201-29. Removal from sidewalks required.

All owners and persons in possession of any land or premises situated on any street within the city where sidewalks are laid shall remove the snow or ice therefrom for the entire length thereof for a width of at least four (4) feet and may deposit the same along the remaining portion of such sidewalk nearest the curb within six (6) hours after it has ceased falling, unless the same shall have fallen between the hours of 5:00 p.m. and 7:00 a.m., in which case it shall be removed before 2:00 p.m.

§ 201-30. Violations and penalties.

In the event that any such owner or person in possession shall refuse, fail or neglect to clean and remove the snow and ice from the sidewalk as provided in § 201-29 of this Article when notified so to do, such owner or person in possession shall be guilty of a municipal infraction and, upon conviction thereof, shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time9 In addition thereto, the city may cause the same to be removed as above specified and charge the cost thereof against the property.

§ 201-31. Collection of costs.

Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

The cost of any removal of snow or ice incurred by the city pursuant to § 201-30 shall be a debt of the owner of the abutting property and shall become due and payable when the statement thereof is placed in the hands of the City Clerk. The City Clerk shall proceed immediately to render a bill therefor in the same manner as city taxes. Any such charge shall be a lien against the abutting property and shall draw interest after thirty (30) days at the rate of one-half of one percent (½ of 1%) per month or fraction thereof until paid.

Chapter205

SUBDIVISIONOFLAND

§205-1. Applicability;conflictswithother provisions.

§205-2. Definitions.

§205-3. Platrequired;forest conservation;violationsand penalties.

§205-4. Development procedures.

§205-5. Preliminaryplat.

§205-6. Improvements.

§205-7. Finalplat.

§205-8. Modificationsandexceptions.

§205-9. Principlesandstandardsof subdivisiondesign.

[illSTORY:Adopted bytheMayorandCouncilofPocomokeCity5-21-1990asOrd.No. 309.Amendments notedwhereapplicable.)

GENERALREFERENCES

ComprehensiveDevelopment Plan-SeeCh.27.
PlanningandZoningCommission—SeeCh.67.
Buildingconstruction-SeeCh.101.
FloodplainmanagemPnt-SeeCh.135.
Forestconservation -SeeCh.137.
Gradingandsedimemcontrol-SeeCh.140.
Housingstandards-SeeCh.146.
Sewers—SeeCh.192.
Stormwatermanagement—SeeCh.198.
Water—SeeCh.226.
Zoning-SeeCh.230.

§205-1.Applicability;conflictswithotherprovisions.

Therulesandregulationsgoverningsubdivisionsoflandcontainedhereinshallapplywithin thecorporatelimitsofPocomokeCity,Maryland,andforadistanceofone(1)milebeyond suchcorporatelimitsinalldirections.IftheCountyofWorcestershouldadoptregulationsfor thecontrolofsubdivisionsinanypartoftheunincorporatedareawithinone(1)mileofthe corporatelimitsofPocomokeCity,whichregulationsareadoptedunderauthorityofArticle 66BoftheAnnotatedCodeofMaryland,1957edition,asamended,andtherequirementsof suchregulationsshoulddifferfromthosecontainedherein,thenineachcasethemoreexacting requirementsshallprevail. Theseregulationsshallbeinadditiontoanyotherspromulgatedby laworbytheStateBoardofHealthorotherauthority,and,incaseofanyconflict,themore exactingrequireMentsshallprevail.

§205-2.Definitions.

Forthepurposeoftheseregulations,certaintermsaredefinedasfollows:

ALLEY—A waywhichaffordsgenerallyasecondarymeansof vehicularaccessto abuttingpropertiesandnotintendedforgeneraltrafficcirculation.

COLLECTORSTREET-Astreetwhich,inadditiontoprovidingaccesstoproperties abuttingthereon.isintendedtocollecttrafficfrom,ordistributeitto,aseriesofminor streetswithina-neighborhoodorsubneighborhood.

CROSSWALKWAY—Apassageway forpedestriansandexcludingmotorvehicles which cutsthrough ablock.

EASEMENT--Astripoflandonwhichalimited right-of-way isprovided forone(I)or moredesignatedpurposes, without including titletotheland.

LOT,DOUBLE-FRONTAGE-Alotex1endingthroughtheblockfromonestreettoanother.

MAJORSTREETPLAN—Theofficial planofmajorstreets, highways,roadsandother waysadoptedbythePocomokeCityPlanning andZoningCommissionandtheMayorand Councilinaccordancewith Article668oftheAnnotatedCodeofMaryland.

MASTERPLAN--The officiallyadopted Master Planforthephysical developmentof PocomokeCityoranypartofsuchplan.

MINORSTREET--A street intended toserve and provide access exclusivelyto the propertiesabutting thereon.

PLANNINGANDZONING COMMISSION--ThePocomokeCityPlanning andZoning Commission.

SUBDIVIDE--Theactofcreating asubdivision,ashereindefined, andincludes resubdivisio1.[1]

SUBDIVISION--Thedivision ofanytractorparcel ofland intotwo(2)ormore plots, parcels,lotsorsitesoneormoreofwhichdoesnothaveanexistingdwelling houselocated thereon,for thepurpose, whether immediateorinthefuture, oftransfer ofownershipor buildingdevelopment.Theoriginalplotshallbeconsideredasone(1)oftheplots,parcels, lotsorsitesnfthe"subdivision."[2][Amended8-19-96 byOrd.No.340.]

§205-. PIa t requa r ed;,orestconserva t"aon;v a o a t"aonsanu pena iidq A menueu o -:: 1 :: 1 n n 6 uyvru. No.340;12-9-96byOrd.No.344]

A. The subdivisionof any tract, parcel, lot or site upon which more than one dwelling housewaslmatedontheeffectivedateofthisOrdinance(January 23,1967),intoasmany separate lots as there were on such date existingdwellinghouses, shall not require compliancewiththis Chapterexcept thatafinal subdivisionplatshall beprepared and submitted tothePlanningandZoningCommission forapproval whichmeetsthefollowing criteria.

(1) The plat shall show the boundariesof the original tract or parcel of land with

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!Editor'sNote:Amendedattimeofadoption ofCode;seeCh.I,GeneralProvisions,Art.1

2Editor'sNote:Amendedattimeofadoption ofCode;seeCh.I,GeneralProvisions,Art.1

the informationrequired by§§ 205-5B,205-5C,(1),(4),(5),(7),205-5D, (1),(2),(3),(9).

(2) Each lot of the proposed subdivision shall have located thereon an existing dwellinghouseandthedivisionlinesforthenewlotsshallbe,asfaraspracticable, locatedequaldistancebetweeneachexistingdwellinghouse, creatinglots approximately equalinarea.

(3) Varianceforlotsize,streetfrontage,orside,backorfrontyardsetbackminimum distancesshallnotberequired.

(4) EachlotoftheproposedsubdivisionshallhavefrontageonaCitystreet approximately equaltothatoftheotherlotsbeingcreated.

(5) The feerequired forsubmission ofasubdivision plat pursuant tothis§205-3A shall be one-half theamount set for either a major or minor subdivision application pursuanttothefeeschedule.

(6) No future development orredevelopment maybeapproved onanyofthelots unless the requirements ofthe Zoning Regulations are complied with except that if a dwelling houseoraccessory structure isdestroyed byfire ornatural disaster,thestructuresodestroyedmaybereplaced withinoneyearofitsdestruction wi1hadwellingoraccessorystructureoflikesizeandarea,subjecttocompliance withcurrentbuilding,plumbingandelectricalcodes.[Added12-9-96byOrdinance No.344.]

B. Subdividermustprepareandrecordplat.Fromandaftertheadoptionoftheseregulations, anyownerorproprietorofanytractoflandlocatedintheterritorytowhichtheseregulations mayapplywhosubdividesthesameshallcauseaplatofsuchsubdivisiontobemadein accordancewiththeregulationssetforthhereinandin§§5.01 through5.07ofArticle66B oftheAnnotatedCodeofMarylandand,afterhavingsecuredtheapprovalthereofbythe PlanningandZoningCommissionasprovidedherein,shallcauseacopyofsaidplattobe recordedintheofficeoftheCountyRecorder.[3]

C. Approval ofplat required. Noplatofanysubdivision shallberecorded untilitshall havebeenmbmittedtoandapprovedbythePlanningandZoningCommissionasprovided hereinThePlanningandZoningCommissionshallnotapprovesaidplatunlessitissatisfied thattherequirementsoftheseregulationshavebeencompliedwith. Thefinalplatshallbe recordedwithinsix(6)monthsofthedaythesaid platisapproved If the platisnotrecorded withinsuchtimeperiodthesubdivisionapprovalshallbevoidandtheownerorproprietor shallre-applyforsubdivisionplatapprovalandcomplywiththisChapterbeforeundertaking thesale,transferordevelopmentoflessthanallofthetractorparcelofland.

3Eclitor'sNote: Amended attime of adoptionofCode;seeCh.I,GeneralProvisions,Art.l

D. Transfer ofland;building permits.Nolandinasubdivision createdaftertheadoption ofthese regulationsshallbetransferred,soldorofferedforsale,nor shallabuildingpermit beissuedforastructure thereon, untilafinalplatofsuchsubdivisionshall havebeen recordedinaccordancewithregulationsandtheprovisionsofthestatecode.

E. The Worcester County Critical Area Plan shall apply to all subdivisions under this chapter ofthe areanorthofStateRoute756,eastofU.S.Route13Bypassannexed by Resolution No.270exceptthoseexceptedactivitiesassetforthintheWorcesterCounty CriticalAreaPlanofWorcesterCounty,Maryland.[Added12-9-96byOrdinanceNo.344.]

F. The Worcester County ForestConservation Lawshallapplytoallsubdivisions under *this*chapterofareasoffortythousand(40,000)squarefeetorgreater,exceptthoseexcepted activitiesassetforthintheCodeofPublicLocalLawsofWorcesterCounty,Maryland,in theNaturalResourcesArticle,§NRl-403(b).[Added1-8-1996byOrd.No.336]

G. Penalties.Anyviolation ofthese regulationsshall beamunicipal infraction andshall besubjecttoafineassetforthintheFees, ChargesandRatesSchedule,adoptedby resolutionoftheCityCouncilfromtimetotime.[4]

§205-4.Developmentprocedures.

Inplanninganddevelopingasubdivision,thesubdividerorhisorheragentshallcomplywiththe generalprincipiesofdesignandminimumrequirementsforthelayoutofsubdivisionssetforthin §205-9andwiththerulesandregulationsconcerningrequiredimprovementssetforthin§205-6 oftheseregulations,andineverycasehe orsheshallobservethefollowingprocedure:

A Preliminary conference.Before undertakingthepreparation ofasubdivision plat,the subdiiderorhisorherengineershouldconsultwiththePlanningandZoningCommission oritsagenttoascertainthelocation ofproposedmajorroadsorhighways,parkways,parks, playgrounds,landuseandotherplanneddevelopments,aswellasthezoning,sanitationand other regulations andtherequirementsfordrainageandutilitiesrelatingto,affectingor applyingtothesubdivisionofhisorherproperty.Thesubdividershouldbringwithhimor herasketchofhisorherproperty,toapproximatescale,showingtheboundaries,general topography,importantphysicalfeaturesandothersignificantinformation,aswellashisor herconceptionorproposedschemeforthedevelopmentoftheproperty.ThePlanningand ZoningCommissionoritsagentwilltrytoassistthesubdividerbyfurnishinginformation andadvicesoastoexpeditemattersforthesubdivider,savehimorherfromunnecessary expenseandpromotethebestcoordinationbetweentheplansofthesubdividerandthose ofthecommunity.ThePlanningandZoningCommission,however,willnotundertaketo designthesubdivisionor toperformotherservicesforwhichaqualifiedlandplannershould moreproperlybeengaged.

4 Editor'sNote:The currentFees,ChargesandRatesScheduleisonfileintheCity Clerk'soffice.Amendedattimeof adoption ofCode;seeCh.1,GeneralProvisions,Art.I.

B. Preliminary plat.

(I) Thesubdividershallthenprepareapreliminaryplatoftheproposedsubdivision conforming withtherequirementssetforthin§205-5following. At leasttwo(2) weekspriortoaregularlyscheduledmeetingofthePlanningandZoning Commission at which action on such plat isdesired, three (3) black-line or similar prints ofthe platshallbefiledwiththeSecretary ofthePlanning andZoning Commissiotogetherwithanapplicatioinwriting,foritstentativeapproval.In case theproposedsubdivisionoranypartthereofislocatedoutsidethecorporate limits butwithinone(1)milethereof,additional copiesoftheprelimlnary plat sufficienttomeettherequirements,ifany,ofWorcesterCountyshallbefiledatthe sametime.TheSecretaryof thePlanningandZoningCommission shalltransmit thesecopiestothecountyauthoritiesfortheirinformationandappropriateaction.

(2) The preliminary platwillbechecked bythePlanningandZoningCommission or itsagent astoitsconformitywiththeMajorStreetPlanandother pertinent features of the Master Plan, other applicable provisions and the principles, standards and requirements hereinafter set forth. Copies willbe referred for theirrecommendationorotherappropriateactiontoallotherofficialsconcerned with publicimprovementsorhealthrequirements.AtthePlanningandZoning Commissionmeeting,thePlanningandZoningCommission'sagentshalls11bmithis orherfindingsandrecommendations,togetherwiththoseoftheotherofficialsto whom copies were referred, and the Planning and Zoning Commis:ionwill tentativelyapproveordisapprovetheprelimlnaryplatormayapproveitsubjectto specificchangesormodifications. Acopyshallberetainedinthe Planningand ZoningCommissionfiles.Tentativeapprovalofaprelimlnaryplatshallbevalidfor notmorethanone(1)year,unlessextendedbythePlanningandZoningCommission uponrequest.Noplatshallbeapprovedthatisinconflictwith Chapter230.Zoning, orwithanypartofanofficiallyadoptedfeatureoftheMasterPlan.

C. Improvement plans.

(1) Upon tentative approval of the preliminary plat, the subdividermay prepare and submit tothePlanningand Zoning Commission plansfor the in:>tallation ofimprovementsinaccordancewiththerequirementsof§205-6ofthesere! lations. Such plansshallbesufficient toshowtheproposedlocatiosize,type,grade, elevation and other significant characteristics of each improvement. All suchimprovementsshallbedesignedincompliancewithandtothestandards,plansand specificationssetforthintheseregulations.Copiesofsuchimprovementplanswill be referredbythePlanningandZoningCommissiontotheappropriateofficialsfor checkingandapproval,subjecttosuchchangesorconditionsasintheirjudgment mayberequired. Saidplansshall thenbereturned tothePlanning andZoning Commissiowhichshall notifythesubdividerofsuchapproval. Plansforthe installationofimprovementsneednotbepreparedat anyonetimetocovermorethan theportionofthesubdivisionwhichistobeincludedinafinalplat.

(2) Uponbeingnotifiedthattheimprovementplanshavebeenapproved,thesubdividermayproceed withtheinstallationofsuchimprovements afterobtaining fromthe appropriateofficialsthenecessarypermitstodoso,or,inlieuofproceedingwith improvements,heorshemaypostwiththeCouncilaperformancebondrunning tothecity,inanamountsufficienttocover thecostofanyor alloftheimprovements asestimated by theappropriateofficials,toinsuretheactualconstruction and installation ofsuchimprovementswithinatimelimitandaccording to other requirementstobespecifiedineachcasebysaidCouncil.

D. Finalplat.

(1) Options relativeto required improvements. The followingoptions shall apply relativetorequiredimprovements:

(a) lfthesubdividerproceedswiththeinstallationofrequiredimprovements, then,uponreceiptofareportfromeachoftheappropriateofficialsthatsuch improvements havebeencompletedtohisorhersatisfaction,thePlanning andZoningCommissionwillrecommendtotheCounclthatitacceptthe roadsandotherimprovements,andthePlanningandZoningCommissionwill consideranapplicationforapprovalofthefinalplat;or

(b) lf the subdividerfollows the alternative procedure of posting bond as providedaboveandinstallingtheimprovementslater,thenthePlanningand ZoningCommissionwillreceiveandconsiderthefinalplatbefore completion oftheimprovements.

(2) Afinal plat may include allof the property covered bythe preliminary plat or may be limited toany portionthereof that is intended to bedeveloped as a first *unit.*Additional finalplatsmay besubmitted later,covering additional unitsoftheproperty,providedthattheprelimnaryplatisstillvalidoritsapproval hasbeen extended.Everyfinalplatshallbesubstantially inaccordance Withthe tentatively approvedpreliminaryplat,includingsuchchangesoradditionsasmay havebeenrequiredbytheCommissionasaconditiontoitstentativeapproval,and itshall conformineveryrespectwiththerequirements specifiedir.§205-7ofthese regulations.

(3) The subdividershall file withthe Planning and Zoning Commission, at least two(2) weeks priortoitsmeeting,afinal platdrawn withinkontracingcloth or vellum,together with an application, in writing, for the approval thereof. TheplatshallbecheckedbytheCommissionforcompliance withtheseregulations andwiththeconditionsoftentativeapproval,andtheCommisswnwillhavethe necessarycopiesmadeasrequiredin SubsectionE.

E. Approvaloffinalplat

(1) Upon a finding bythe Planning and Zoning Commission as to the adequacy and complianceofthefinal platanditsreceiptofreportsfromtheresponsible officials as to the satisfactory installation of required improvements or the posting of bond therefor, the Planning and ZoningCommission may approve saidfinalplatandshallendorsethefactofsuchapproval oneachoftheseveralprints bythesignatureofitsChairandSecretaryinthespacestobeprovidedtherefor.No final platshall beapproved, however, unlessitisfoundbytheCommission to conform totheprelimary platastentativelyapprovedandtobeinconformity otherwisewiththerequirementsoftheseregulations.TheSecretaryofthePlanning andZoningCommissionshallthenfiletwo(2)clothprintsforrecordwiththeClerk oftheCircuitCourtofWorcesterCountyandshalldistributeotherprintsasfollows: one(1)totheSupervisorofAssessmentsone (1)tothe CountyHealthDepartment, ifrequireandone(1)tothePlanningandZoningCommissionfiles.One(1)signed copyshallbereturnedtothesubdivider.

[ContinuedonPage20506]

(2) Approval of thefinal plat bythe Planning and Zoning Commission shall not be deemed toconstitute oreffectanacceptance bythepublicofthededication ofany streetorother proposed publicwayorspaceshownonsaidplat,buttheshowingof such ways or spaces shall bedeemed tobe an offer of dedication which may be acceptedbythepublicthroughanysubsequentappropriateact.

F. A fee, in the amount as shall bedetermined by the Council by resolution,[5] shall be collected atthetimeoffilingeachpreliminaryplattocompensate thecityinpartforthe costofinvestigating, reviewing andcheckingtheseveral plansandplatsrequiredherein, plusthecostofnecessaryprints.Therecordingfeesandthecostofnecessaryprintsofthe finalplatshallbecollectedatthetime suchplatisfiledwiththePlanningandZoning Commission.

§205-5. Preliminaryplat.

Thepreliminary platofthepropposedsubdivisionshallcomplywiththefollowingrequirements andcontainthefollowing information:

A. Generalstyleandform.

(1) Itshallprovideallthepertinentinformationasto existingsiteconditions,property ownership and the likethat may be necessary for the Planning and Zoning Commission toproperlyconsidertheproposedsubdivision. Thisinformationshallbe accurateandreliable.

(2) Itshallshow thegeneralplanofultimatedevelopment fortheproperty,covering the entire tract of landorso muchofitasmay beconsidered tobenecessary for an adequate consideration oftheparttobesubdivided.This informat10nshould bein preliminaryform,drawntoscale,butnotengineeredorsurveyed.

(3) Itmaybedrawn inpencil,ontracingpaper,butshallnotbeatascalesmaller than one(1)inchperonehundred(100)feet.

B. Titleinformation:

(1) Proposed subdivision name, which shall not duplicate or closely approximate the nameofanyothersubdivisioninWorcesterCounty.

(2) Namesandaddressesofowner,subdividerordeveloperandthe designsurveyoror engineer.

(3) Description ofsubdivisionlocationbystreets,tract,politicalsubdivison,etc. (4)

Scale,Northpointanddate.

C. Information astoexistingphysicalconditions:

(1) Boundariesofthelandbeingsubdivided,inheavyoutline,andtheacteagetherein.

5 Editor's Note:Thecurrent Fees,ChargesandRatesSchedule isonfilein theCityOerk'soffice.

(2) Topographiccontours,referencedtoUnitedStatesCoastandGeodeticSurveydatum, atfive-footintervals,exceptwheretheaverageslopeislessthanthreepercent(3%), inwhichcasetwo-foot contourswillberequired.Contoursshallextendonehundred (100)feetbeyondthesubdivisionboundary,exceptacrossapublicroad.

(3) Watercourses,importanttrees,woodedareas,buildings,transmissionlines,pipelines, otherutilities,bridgesandanyothersignificantphysicalitems,withthesizesand gradesofanywater-orsewerlines.

(4) Locations,widthsandnamesofallexistingstreets,alleysorotherpublicwayswithin oradjoiningthesubdivisionorintersectinganystreetthatboundsit;thoserecorded butunimproved(shownbydottedlines);railroad,utilityorotherrights-of-wayor easements;parks andotherpublicspaces;subdivisions,lotsandpropertylines; municipalcorporation lines;andtheapproximatelocationsandoutlinesofpermanent buildings.

(5) Existingzoningofthetractandadjacentproperties.

(6) Informationastotheminimumpermissiblelotsizesonthelandinquestion,tobe obtainedfromtheCountyHealthOfficerwhere sanitarysewersorpublicwater facilitiesarenottobeprovided.

(7) Allexisting tractlineswithappropriatelandrecordreferences. D.

Informationastoproposeddevelopment:

(1) Layout,widthsandnamesof proposedstreets,alleys,crosswalkwaysandeasements. (2)

Layout,numberingand approximatedimensionsofproposedlotsorparcels.

(3) Parcelsoflandintendedtobeconveyedortemporarily reserved forpublicuseorfor thejoint useofpropertyowners,withan explanationoftheprovisionorconditions of suchconveyanceorreservationandtheproposed arrangementforownershipand maintenance.

(4) Tentativegradeoneachstreet.

(5) Tentative locations for utilities and drainage facilities, with easements where necessary.

(6) Proposedbuildinglinesalongallstreets,withtheamountofsetbackindicated. (7)

Proposedusesofpropertyandanyproposedzoningchanges.

(8) Outlineofproposeddeedrestrictions.

(9) Generaldescriptionofstreetandotherpublicimprovementsproposedtobeinstalled. [SeeSubsectionD(5).Detailedplansforthese aretobepreparedaftertentative approvalofpreliminaryplat.]

§205-6.Improvements.

A.[6] Improvementsrequired.Theminimum improvements thatasubdividerwillberequiredto provideandinstallinasubdivision, ortoenterintoagreementtoprovideandinstall,prior totheapprovalofthefinalplatthereof,shallbeasprescribedinthissection.All such improvements shall bedesigned byalicensed architect orengineer inaccordance with accepted standard procedures and practices. Nothing, however, shall be construed as prohibitingasubdividerfrominstallingimprovementsofahighertypethantheminimums requiredherein.Thefollowingshallapplytothecompletionofimprovements:

(1) Therequiredimprovements shallbecompleted, inspectedandacceptedbytheproper authoritiespriortotheapproval bythePlanningandZoningCommission ofthefinal platanditsrecording;or

(2) Inlieuofcompleting theimprovements asrequired inSubsection A(l) above, the subdividermayfurnish totheCouncil asatisfactory bondinanamountsufficientto covertheestimatedcostofsuchimprovements forthepurposeofguaranteeingtothe citythatthesubdividerwillcompletetheinstallationoftheimprovements withinsuch reasonablelimitoftimeasmaybedesignatedbytheCouncilineachcase.

B. Minimumrequirements.

(1) Streets.Allnewstreetsshall begradedanddrained, basematerialapplied, curband gutterconstructed whererequired,surfacingapplied,utilitiesinstalledandstreetname signs erected, all in accordance with the minimum standards of design and constructionadoptedbythecityorcountyforacceptanceintotheappropriatesystem ofpublicstreetsorroads.Existingroadsorstreetswithinoradjoiningthesubdivision thatdonotmeetthesespecifications astowidthorconstructionshallbewidenedand broughtup tostandardonthesideswhichadjointhesubdivisionifanylotsinthe subdivisionfronttherеon, oraserviceroadmaybeprovidedalongthefrontofsuch lots,separatedfromthemainroad.

(2) Pavementwidths.Theminimumwidthofpavementrequiredtobeinstalledat the subdivider'sexpenseshallbeasfollows:

(a) Major streets and highways, asshown on the official Major Street Plan,and collector streets: thirty-six (36) feet in residential areas, forty (40) feet in businessorindustrial.

(b) Minorstreets:twenty-six (26)feetinresidentialareas,forty(40)feetinbusiness orindustrial.

(c) Localaccessandserviceroads:twenty-six(26)feet.

(d) Turningcircles:minimumoutsidediameterofeighty(80)feet.

(3) Shoulders.Stabilized shouldersatleastthree(3)feetinwidthshall beprovidedon bothsidesofthepavement, exceptforone(1)sideinthecaseofservice roadsand exceptwherestandardcurbsareinstalled.

6 Editor'sNote:Amendedattimeofadoption ofCode;seeCb.1,General Provisions,Art.I.

(4) Curbsandguttersandsidewalks.Theseshallbeprovidedinresidentialsubdivisions andinfrontofallbusinesslots.Thefaceofcurbshallbelocatedonthelineofthe outsideedgeoftherequiredpavement.Minimumwidthofsidewalksisfour(4)feet unlessmatchinguptoexisting.

(5) Drains.Intheabsenceofcurbandgutter,astabilizeddrainagewayshallbeprovided outsidetheshoulder,conformingtothestandardsofcrosssectionandconstruction adoptedbythecity.

(6) Water facilities. Every subdivision shall be provided with a standard water distributionsystem,includingaconnectionforeachlot andappropriatelyspacedfire hydrants, whichsystemshallconformtothegeneralwatersystemplanandstandards ofthemunicipalityandshallbecomeapartthereof; provided, however,thatin locations withinthe municipalitythat cannot bereachedbythe municipal water systematareasonablecost,theMayorandCouncilmay approvetheinstallationofa self-containedsystemacceptabletotheappropriatehealthauthoritiesoncondition thatitshallbedesignedinaccordancewithcitystandardsandshallbeconnectedto themunicipal systemassoonaspracticable.Everysuchinstallationshallbegivento andoperatedby thecityas thoughitwere apartofthegeneralsystem.

(7) Sewerfacilities.Everysubdivisionshall beprovidedwithasanitarysewersystem connected to the municipal system and becoming a part thereof. Every such installationshallbedesignedinaccordancewiththegeneralsewersystemplanand standardsofthemunicipality.

(8) Drainage.Everysubdivisionshallbeprovidedwithstormdrains,culverts,curband gutters,drainagewaysorotherworksadequateto collectanddisposeofallwater originatingonorflowingacrosstheipropertywithout inundatingordamagingroads, lotsorotherproperties.The drainageworksmustbeinconformancewithstate,county and cityordinances.

(9) Streetsigns.Namesignsofanapproveddesignshallbeerectedateachnewstreet intersection.

(10)Monuments. Permanentmonumentsshallbesetbythesurveyor,asrequiredfor markersin§3-108oftheRealPropertyArticleoftheAnnotatedCodeofMaryland. Ironpipes shallbesetalongthepropertylinesofallstreetsatpointsofintersection, curvatureortangencyandatsuchpointsalongthesubdivisionboundariesasmaybe necessarytoidentifytheirlocations.Allmonumentsshallbelocatedandidentified uponthefinalplat.[7]

C. Improvementsplans.Plansfortheforegoingimprovementsshallbepreparedforapproval bytheappropriatepublicauthorities,asprovidedin§205-4,priortoconstruction.Such plansneednotbedetailedconstructionplansbutshallbesufficienttoshowtheproposed locations,sizes,types,gradesandgeneraldesignfeaturesofeachfacility,includingthe following:

[7] Editor'sNote:AmendedattimeofadoptionofCode;seeCh.1,GeneralProvisions,Art.I.

(1) Profile ofeachstreetcenterline,withgrades(includingprojectionsbeyondthe subdivisionboundarieswheresignificant),andshowingwater- andsewerlines, manholes,culverts,streams,etc.Thescaleshallbeone(1)inchtoonehundred(100) feetorlesshorizontalandone(1)inchto ten(10) feetorlessvertical.

(2) Typicalstreetcrosssectionsforallstreets,atascalenotsmallerthanone(1)inchto five(5)feet,showingwidthofroadway,typeofpaving,locationsandwidthsof curbs,sidewalks,trees,utilities,etc.Whereconsiderablecutsorfillsarerequired, specialcrosssections shallbepreparedtoshowproposedgrading, andtheirlocations shallbeshownontheplan.Agradingplanshowingexistingandproposedcontours maybefurnishedinlieuof crosssections.

(3) Locations,plansandprofilesforproposedsanitaryandstormsewersordrains,with gradesandpipesizesindicated.

(4) Locationplanofproposedwaterdistributionsystem,showingpipesizesandlocations forvalvesandfirehydrants.

D. Inspectionandacceptance.Allconstructionworkonimprovementsrequiredhereinshall besubjecttoinspection duringanduponcompletionofconstructionbyauthorized engineeringrepresentativesofthecityorotheragencyhavingjurisdictionandtoapproval andacceptancebysuchrepresentativesonbehalfofthe cityorotheragency,iffoundtobe inaccordancewiththeapprovedplans.Nofinalplatshallbeapprovedorrecordeduntilall required improvements shallhave been satisfactorily completed and accepted in complianceherewithorsatisfactorybondposted,andnosuchbondshallbereleaseduntil allimprovementssecuredbysuchbondshallhavebeencompleted andacceptedin complianceherewith.

§205-7. Finalplat.

Thefinalplatofthesubdivision shallcomplywiththefollowingrequirementsandcontainthe followinginformation:

A. Generalstyleandform.

(1) Itshall belegiblyandaccuratelydrawnontracingcloth,insheetsfifteenbytwenty-one(15x21)inchesinsize,andatascaleofone(1)inchtofifty(50)feetorone(1) inchtoonehundred(100)feet,dependinguponthesizeandnatureof thesubdivision.

(2) Itshallconforminallrespectstotherequirementsof§§3-108and3-304oftheReal PropertyArticleoftheAnnotatedCodeofMaryland,whichrelatetothemaking, filingandrecordingofplats.[8]

B. Titleinformation:

(1) Subdivision name.

(2) Locationbycityorelectiondistrict,countyandstate.

8 Editor'sNote:Amendedattimeofadoption ofCode;seeCh.1,General Provisions,Art.I.

(3) Namesandaddressesoftheownersofrecord, thesubdivider andtheengineeror surveyor.

(4) Scale,dateandNorthpoint. (5)

Amarginallocationmap.

C. Graphicinformation:

(1) Exactboundariesoftheareaincludedwithinthesubdivision,with dimensionsto hundredths ofa foot and bearings to half minutes. These boundariesshall be determinedbyanaccuratesurveyinthefield,whichshallbe balancedandclosedwith anerrorofclosureofnottoexceedone(1) intenthousand(10,000).

(2) Bearingsanddistancestothenearestrecordedproperty comersorothermonuments, whichshallbelocatedoraccuratelydescribedontheplat.

(3) Theaccuratelocationsanddescriptionsofallpermanentmonuments.

(4) Names andlocationsofadjoiningsubdivisionsorthelocationandownershipof adjoiningunsubdividedpropertyandexistingtractlines,withappropriatelandrecord references.

(5) Exactlocation,widthandnameofeachexistingorrecordedroadorstreetadjoining orintersectingtheboundariesofthe tract.

(6) Theexactlocationandwidthofeveryroad,street,alley,easementorotherpublicor privatewaywithinthetract,with thelength andbearingofeverytangent,lengthsof arcs,radii,internalangles,pointsofcurvatureandanyothernecessaryengineering data,withthenamesofsuchwaysandthepurposesofeasementsorotherways.

(7) Accuratelocationofeverylotline,withitsdimensiontohundredthsofafootand bearingtominutes,exceptthatthisdataneednotberepeatedonaseriesofparallel linesorlinesofthesamelength.

(8) Buildingsetbacklinesdrawntoscaleanddimensionedtostreetlines.

(9) Blocksletteredinalphabeticalorderandlotsnumberedinnumericalorder within eachblock.

(10)Accurateoutlinesofanyareasdedicatedorreservedforpublicuseorforanyother purposeexceptsale,withthepurposeindicated.

(11)Accuratelocationofanymunicipalordistrictlinetraversingorcloselyrelatedtothe tract.

(12)Existing andrelocatedcoursesof any watercoursestraversingthetract, with the right-of-wayoreasementlinesprovidedtherefor.

D. Certificatesandotherinformation:

(1) Owner's certificate,signedandnotarized,acknowledgingownershipoftheproperty andagreeingtothesubdividingthereofasshownontheplatandalsoofferingfor dedicationallstreetsandotherwaysandplacesintendedforpublicuse.

(2) Certificateoftheengineerorsurveyortotheeffectthattheplatrepresentsasurvey madebyhimorher,thatitisaccuratetothebestofhisorherknowledge,thatall monuments indicatedthereonactuallyexistandtheirlocationsanddescriptionsare correctlyshownandthatallrequirementsofthesesubdivisionregulationsandof otherapplicablelawshavebeenfullycompliedwith.

(3) Abriefsummaryofthedeedrestrictionsapplyingtotheplat,amongwhichshallbe includedthefollowing:

(a) That not morethan one (1) principal buildingshall be permitted on any residentiallot,andnosuchlotmayeverberesubdividedsoastoproducta buildingsiteoflessareaorwidththantheminimumrequiredbytheapplicable zoningregulations.

(4) Certificateof approvalbythePocomokeCity PlanningandZoningCommission.

§205-8. Modificationsandexceptions.

A. Thegeneralprinciplesandstandardsofsubdivisiondesignstipulatedin§205-9maybe variedbythePlanningandZoning Commissioninthecaseofasubdivisionlargeenough to constituteamoreorlessself-containedcommunitytobedevelopedinaccordancewitha comprehensiveplansafeguardedbyappropriaterestrictionswhich,inthejudgmentofthe PlanningandZoningCommission,makeadequateprovisionforallessentialcommunity requirementsorinthecaseofunusualconditions;provided,however,thatnomodification shallbegrantedwhichwouldconflictwiththeproposalsoftheMajorStreetPlanorofany otherpartoftheMasterPlanorwiththeintentand purposeoftheseregulations.

B. Inthecaseofasmall subdivision ofminorimportance situatedwherethecontrolling conditionsarewelldefined, thePlanningandZoningCommissionmayexemptthe subdividerfromcomplyingwithsomeoftherequirementsstipulatedin§205-5pertaining tothepreparationofapreliminaryplat.

C. InthecaseofasubdivisionestablishedbyaplatdulyrecordedwiththeClerkofthe CircuitCourtforWorcesterCountypriortoJanuary23,1967,thePlanningandZoning Commissionshall,uponthe requestforaresubdivisionthereof,recommendtotheCouncil thewaiverofsuchrequirementsofthischapterasitshalldeemappropriate,ifany,upon suchtermsandconditionsasitshallseefittoimpose. Uponreceiptofany recommendationsofthePlanningandZoningCommissiononanyproposedwaiverof subdivision regulations,theCouncilshallholdapublichearingin relationtheretoat which thepartiesininterestandthepublicshallhaveanopportunitytobeheard.Atleastfifteen (15)days'noticeofthetimeandplaceofsuchhearingshallbepublishedinapaperof generalcirculationinthecommunity,andtheproperty inquestion shallbeposted conspicuouslywithanoticeofthehearing.TheCouncilmay,afterthepublichearing, approvebyordinance theresubdivisionplanrecommendedbythePlanningandZoning Commission.However,nosubstantialchangeinordeparturefromtheresubdivisionplan asrecommended bythePlanningandZoning Commission,includingthetermsand conditionsthereof,shallbe madeunlessthesameisresubmittedtothePlanningand ZoningCommissionforitsfurtherrecommendation.

§205-9. Principlesandstandardsofsubdivision design.

Inlayingoutasubdivision,thesubdividershallcomplywiththefollowinggeneralprinciples andrequirements:

A. General.

(1) Thesubdivisionlayoutshallconformtotheofficial MajorStreetPlanandanyother partsoftheMasterPlan,aswellastheapplicablezoningregulations.

(2) Wheneveratracttobesubdividedadjoinsorembracesanypartofamajorstreet, highwayorother publicwaydesignatedonsaidMajorStreetPlanaspartofthemajor streetsystem,suchpartofthepublicwayshallbeplatted anddedicatedbythe subdividerinthe locationandatthewidthindicatedontheplan,exceptthata dedicationinexcessofonehundred(100)feetinwidthwillnotberequired.

(3) WhereheldappropriatebythePlanningandZoning Commission,openspaces constitutingareasonableproportionofthegrossacreage ofthesubdivision,suitably locatedandofadequatesizeforparks,playgroundsorotherrecreationalpurposesfor localorneighborhooduse,shallbeprovidedforintheproposedsubdivision,andif notdedicatedtothepublic,shallbereservedfor thecommonuseofallproperty ownersintheproposedsubdivisionbycovenantinthedeeds.

(4) Thesubdivisionoflandsubjecttoperiodicinundationwillnotbeapproved.Aplatof aproposedsubdivisionlocatedinanareahavingpoordrainageorotherwiseadverse physicalconditionsmaybeapproved,providedthatthesubdivideragreestomake suchimprovementsaswillinthejudgmentofthePlanning andZoningCommission renderthesubdivisionsubstantiallysafeandotherwiseacceptableforitsproposeduse andfurnishesaperformancebondsufficienttocoverthecostofsuchimprovements as estimatedbytheofficialshavingjurisdiction.

B. Streetlayout.

(1) Thestreetlayoutofthesubdivisionshallbeingeneralconformity withaplanforthe mostadvantageousdevelopment ofadjoiningareasandtheentireneighborhood.

(2) Whereappropriatetodesign,proposedstreetsshallbecontinuousandinalignment withexisting,plannedorplattedstreetswithwhich theyaretoconnect.

(3) Proposedstreetsshallbeextendedtotheboundarylinesofthe tracttobesubdivided, unlesspreventedbytopographyorotherphysicalconditionorunless,intheopinion ofthePlanning andZoningCommission,suchextension isnotnecessaryordesirable forthecoordinationofthelayoutofthesubdivisionwiththeexistinglayoutorthe most advantageousfuturedevelopmentofadjacenttracts.Temporaryturnaroundswill berequiredattheendsofsuchstreets,by meansofeasementsorotherwise.

(4) Dead-endstreetsofreasonablelength[normallynotoversixhundred(600)feet]will beapprovedwherenecessitatedbytopographyorwhere inthejudgmentofthe PlanningandZoningCommissiontheyareappropriateforthetypeofdevelopment contemplated.Aturnaroundshallbeprovidedattheendof suchastreet.

(5) Whereverthereexistsadjacenttothetracttobesubdividedadedicatedorplattedand recorded half-widthstreetoralley,theotherhalf widthshallbe platted.

(6) Thestreetlayoutshallconformsubstantiallytoexistingtopography,minimizingstreet grades,andshallprovideforgooddrainage,goodbuildingsitesandreadyaccessto lots,withoutexcessivecutsorfills.Treesshallbepreservedtothemaximumextent possible.

(7) Streetsshallintersectoneanotheratasnearlyrightanglesastopographyandother limitingfactorsofgooddesignwillpermit.

(8) Minorresidentialstreetsshallbearrangedsoastodiscouragetheirusebythrough traffic.

(9) Landabutting highwaysshallbeplattedwiththeviewofmakingthelots,iffor residentialuse,desirableforsuchusebycushioningtheimpactofheavytrafficupon themandalsoofminimizinginterferencewithtrafficonsuchhighwaysaswellas accidenthazards.

(a) One(1)ormoreofthefollowingwaysmaybeusedtoaccomplishthis:

[1] Byplattingthelotsextradeepandprovidingvehicularaccesstothemby alleysorservicedrivesintherearorbyservicedrivesinfrontseparated fromthehighwaybyaparkwayandconnectingtherewith atinfrequent intervals.

[2] Bybackingthelotsuponthehighwaysothattheyfrontonandhaveaccess fromaparallelminorstreetone-half(112) blockaway.Vehicularaccessto thelotsfromthehighwayshould beprohibitedbyaparkwayeasement alongtherearofthelots,coveredbydeedrestrictions.

[3] Byarrangingthelotsaroundaseriesofloopstreetsordead-endstreets stemmingfromacollectorstreetgenerallyparalleltoandsomesixhundred (600)toonethousand(1,000)feetdistantfromthehighway,theendsof suchloopsordeadendsbeingone(1)lotdepthawayfromthehighway. Parkway easementsanddeedrestrictionsasreferredtoinSubsection B(9)(a)[2]aboveshouldbeprovidedalongtherearofsuchlots and adjoiningthe highway.

(b) The choicebetweentheforegoing or other methodsfor accomplishingthe desiredpurposeinaspecificcasemustnecessarilybemadeinconsiderationof topographyandotherphysicalconditions,thecharacterofexisting and contemplateddevelopmentsandotherpertinentfactors.

(10)Privatestreetswillnotbeapprovednorwillpublicimprovementsbeapprovedinany privatestreets.

(11)StreetnamesshallbesubjecttoapprovalbythePlanningandZoningCommission. Namesshallnotduplicateorcloselyapproximateexistingstreetnamesinornearthe municipality,exceptforextensionsofexistingstreets.

(12)Streetsshallbespacedtoallowfor blocksmeetingthedimensionalrequirements specifiedherein.Thenumberofintersectionsalonghighwaysandothermajorstreets shallbeheldtoaminimum,normallyspacednotlessthanonethousandtwohundred (1,200)feetapart.

(13)Alleysshallbeplattedinallcommercialandindustrialareasifnootherprovisionsare madeforadequateaccesstoparkingandloadingspaces.Alleysmaybeplattedinthe rearof residentiallotslocatedonhighwaysand majorthoroughfaresinorder to providesafeaccesstosuchlots,orservicedrivesmaybeplattedinfronttherеof,or suchlotsshallbeplattedassuggestedinB(9)above.Alleyswillnotbeapproved elsewhere inresidentialdistrictsexcept for row dwellingsor unlessrequired by unusualconditions.Intheabsenceofalleys,easementswillberequiredforutility linesordrainage.

(14)Minimumwidthsfortheright-of-wayofstreets,alleysandeasementsshallbeas follows(extrawidthsmayberequiredwherenecessary):

(a) Highwaysandmajorstreets:asdesignatedbytheMajorStreetPlan,butnotless thaneighty(80)feetforaprimarymajorstreetorsixty(60)feetforasecondary majorstreet,inanycase.

(b) Collectorstreets: sixty(60)feetinresidentialareasandsixty-six(66)feetin commercialorindustrialareas.

(c) Minorstreets:fifty(50)feetinsingle-familyresidentialareasandsixty(60)feet inmultifamilyresidentialorincommercialorindustrial areas.

(d) Turnarounds:acircleonehundred(100)feetindiameter. (e)

Alleys:twenty(20)feet.

(f) Crosswalkways:ten (10)feet.

(g) Easements:ten (10)feet.

(15)Streetgrades,curvesandsightdistancesshallbeasfollows:

(a) Gradesshallnotbelessthanone-halfofonepercent(112 of1%)andshallnot exceedsixpercent(6%).

(b) Allchangesinstreetgradesofmorethanonepercent(1%)shallbeconnectedby verticalcurvesofaminimumlengthoffifty(50)feetorequaltofifteen(15) timesthealgebraicdifferenceinthechangeingrade,whicheverislarger.

(c) Theradiiofcurvesonthecenterlineshallnotbeless thanthefollowing: [1]

Highwaysandothermajorstreets:fourhundred(400)feet.

[2] Collectorstreets:threehundred(300) feet.

[3] Minorstreetsandservicedrives:onehundred(100)feet.

(d) Betweenreversedcurves,eitherofwhichhasaradiuslessthantwohundred (200)feet,thereshallbeatangentat leastone hundred(100)feet long,if possible.

(e) Atstreetintersections,eachpropertycomershallberoundedoffbyanarc,the minimumradiusofwhichshallbetwenty(20)feet,exceptthatinabusiness district achordmaybesubstitutedforsucharc.Atalleyintersections(withinthe block)achordshallbeused,cuttingoffthecomeratleastten(10)feetback

fromthepointofintersectionin eachdirection.Wherethesmallestangleof intersection islessthansixtydegrees(60°),theforegoingradiiandchordsshall beincreased.

(f) Curbsatstreetintersectionsshallberoundedoffconcentrically withtheproperty line.

C. Blocksandlots.

(1) Residential blocksnormallyshallhavesufficientwidthtoprovidefortwo(2)tiersof lotsofappropriatedepth.Lengthrequirementsshallbeasfollows:

(a) Maximumlength:onethousandeighthundred(1,800)feet. (b)

Minimumlength:fivehundred(500)feet.

(2) Inalong block, acrosswalkwaymay berequired toimprove access toaschool, church,playgroundorotherpedestrianobjective.

(3) Business andindustrial blocks may bespecially designed toserve their particular purposes,whichdesignsshallbe subjecttoapprovalbythePlanningandZoning Commission. Business blocksshall notexceed three hundred (300)feet inlength unlessprovidedwithinteriorpublicdrivewaysforaccessandcirculation.

(4) Lotsshallbeofsuchsize,shapeandorientationaswillbeappropriateforthelocation andthetypeofdevelopment contemplated. Normally,aproportionofabouttwoand one-halftoone(*21/z:*1)indepthandwidthwillbeconsidered appropriate.Excessive depthsinrelationtowidthshallbeavoided.

(5) Residentiallotsshallcomplywithatleasttheminimumsizeandarearequirementsof thezoningdistrictinwhichtheyarelocated.

(6) Comer lotsshallhaveextrawidthstoprovideforextrasideyardsonthestreetsides ofsuchlots, inaccordance withgood design practiceandsufficientinanycaseto meetthesideyardrequirementsforsuchlotsinChapter230,Zoning.

(7) Residential lotsfrontingorabuttingonhighwaysandmajorstreetsshouldhaveextra depthsandextra-deep buildinglinesorshouldhaveservicedrives.

(8) Everylotshallabutonapublicstreet.Throughlots(extendingthroughtheblock)and reverse-frontage lots(frontingonasidestreet)shallbeavoided.

(9) Sidelotlinesshall beapproximately atrightangles toorradialtotheright-of-way lineofthestreet.

(10)Buildinglinesshallbeshownontheplat,alongeachstreet,atleastasrequiredineach casebytheapplicable zoningregulations.Thelocationsoftheselinesshallbeclearly indicatedbydimensions.

(11)Alllotmeasurements shallbenetmeasurements notincludinganypartofanystreet, alleyorcrosswalkway. Easements,however,shallberegardedaswithinthelot.

Chapter 210

TAXATION

ARTICLE I
Admissions and Amusement Tax

§210-1. Statutory authority; imposition of tax.
§210-2. Additional tax on reduced charges or free admissions.
§ 210-3. Exemptions.

ARTICLE II
Commercial Assessed Inventory

§ 210-4. Motor vehicles excluded.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City: Art. I, 11-12-1991 as Ord. No. 317; Art. II, 11-18-1991 as Res. No. 211. Amendments noted where applicable.]

ARTICLE I
Admissions and Amusement Tax
[Adopted 11-12-1991 as Ord. No. 317]

§210.01. Statutory authority; imposition of tax.

Pursuant to the authorization of §4-102(b)(1) of the Tax-General Article of the Annotated Code of Maryland, as amended or re-codified from time to time, a tax is imposed on the gross receipts derived from any admissions and amusement charge as defined in § 4-101(b) of the Tax-General Article of the Annotated Code of Maryland, as amended or re-codified from time to time, at the rate of two percent (2%).

§ 210-2. Additional tax on reduced charges or free admissions.

Pursuant to the authorization of § 4-102(b)(2) of the Tax-General Article of the Annotated Code of Maryland, as amended or re-codified from time to time, an additional tax is imposed on reduced charges or free admissions as set forth in § 4-105(f) of the Tax-General Article of the Annotated Code of Maryland, as amended or re-codified from time to time.

§ 210.3. Exemptions.

Pursuant to the authorization of §4-104(a) and (b) of the Tax-General Article of the Annotated Code of Maryland, as amended or re-codified from time to time, the following are exempt from the admissions and amusement tax gross receipts:

A. Any charge for admission or for merchandise, refreshments or a service if the gross receipts are used exclusively for community or civic improvement by a not-for-profit community association that is organized and operated to promote the general welfare of the community that the association serves and the net earnings of which do not inure to the benefit of any stockholder or member of the association.

B. The admission to a concert or theatrical event of a not-for-profit organization that is organized to present or offer any of the performing arts.

ARTICLE II
Commercial Assessed Inventory
[Adopted 11-18-1991 as Res. No. 211]

§ 210-4. Motor vehicles excluded.

The property classification for ordinary business corporation property shall exclude new and used motor vehicles from the commercial assessed inventory.

Chapter 214

TRANSIENT MERCHANTS

§ 214-1. Definitions.
§ 214-2. License required; fee
§ 214-3. Application for license.
§ 214-4. Bond.
§ 214-5. Responsibility of property owner.
§ 214-6. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 7-6-1981 as Ord. No. 266, approved 7-6-1981 (Ch. 46A of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Noise -- See Ch. 166.

Peddling and soliciting -- See Ch. 180.

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§ 214-1. Definitions.

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

> TRANSIENT MERCHANT -- Any person who displays samples, models, goods, wares or merchandise in any hotel or motel room, inn, rooming house, store, club, storehouse, house or other place for the purpose of securing retail sale of such goods, wares or merchandise and who does not own said premises or is not the holder of a formal lease thereon; provided, however, that this definition shall not include farmers or the holders of booths in any fair, exposition or trade show or sales held in any existing business where the purpose is to promote the existing business.

§ 214-2. License required; fee[1]

No person shall engage in business as a transient merchant in Pocomoke City unless he or she has secured and holds a current license as such issued upon application to the City Clerk. There shall be a fee, in an amount as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[2] charged for the issuance of each and every license, and each license shall be valid for a period of no longer than two (2) days. The city may waive the license fee for any sale that is organized and operated by and for the sole benefit of any bona fide nonprofit civic, religious or charitable organization.

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[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[2] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

§ 214-3. Application for license.

The City Clerk shall prepare and have available application forms for a transient merchant license, which shall require the following information:

A. His or her home address.

B. The name and complete address of the firm or firms he or she represents, together with credentials establishing the relationship.

C. A brief description of the nature of the business and the kind of goods or commodities he or she desires to sell.

D. The exact location where the applicant proposes to sell his or her merchandise.

E. The proposed length of his or her occupancy.

§ 214-4. Bond.

A. Before such licenses are issued, the applicant will be required to post surety in the amount of one thousand dollars ($1,000.). Such surety may be in cash or by surety bond with a company licensed to do business in the State of Maryland. Said bond shall be approved as to form and content by the City Attorney.

B. The condition of such bond shall be that said transient merchant will truly and well perform any and all contracts or sales orders made within Pocomoke City and, more particularly, that if said merchant takes orders for merchandise to be delivered at a future date and accepts payment in part or in full therefor, he or she will deliver said merchandise in a satisfactory condition within a period of four (4) months from the date of said contract, a copy of which contract or sales order containing the full particulars thereof shall be delivered to the purchaser at the time of sale.

C. There shall be no forfeiture in respect to the four-month limitation where there is proof that non-delivery was due to strikes or other extraordinary events beyond the control of said merchant; however, in such event the merchant shall, upon demand, promptly return in full the purchaser's deposit, and, if he or she fails to do so, the bond shall be liable to the extent of the purchaser's deposit.

§ 214-5. Responsibility of property owner.

The owner, proprietor or manager of any hotel, motel, inn, rooming house or other place of public accommodation shall, prior to the exhibition of the transient merchant's goods, wares, models or merchandise therein, notify the transient merchant of his or her need for a license and shall request said transient merchant to exhibit his or her license prior to the solicitation of business on the rented premises. Upon failure of the transient merchant to exhibit his or her license prior to opening his or her exhibition and solicitation of business, the owner, proprietor or manager of the premises shall immediately notify the Pocomoke City police of the unlicensed exhibition and solicitation of business by the transient merchant.

§ 214-6. Violations and penalties[3]

Any person violating the provisions of this chapter shall be guilty of a municipal infraction and, upon conviction thereof, shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time[4] Every day that a violation of this chapter shall continue shall constitute a separate and distinct offense.

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[3] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[4] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

ARTICLE I
General Provisions

§ 220-1. Definitions.
§ 220-2. Adoption of traffic regulations; signs.
§ 220-3. Compliance with signs.
§ 220-4. Compliance with traffic control signals.
§ 220-5. Bicycles.
§ 220-6. Reports and notices of violations.
§ 220-7. Authority of police to summon witnesses.
§ 220-8. Disposition of traffic and parking receipts.

ARTICLE II
Vehicle Operation

§ 220-9. Compliance with school crossing guards.
§ 220-10. Driving over or upon sidewalk or curb.
§ 220-11. Cleated vehicles.
§ 220-12. Motorcycles.
§ 220-13. Diesel-powered vehicles.
§ 220-14. Riding upon portions of vehicles not designated therefore.

ARTICLE III
Parking, Stopping and Standing

§ 220-15. Private ways.
§ 220-16. Public building entrances.
§ 220-17. Motor trucks and commercial vehicles.
§ 220-18. Parking while mechanical refrigeration is in operation; exception.
§ 220-19. Trailers.
§ 220-20. Commercial vehicles in residential districts.
§ 220-21. Time limit.
§ 220-22. Major vehicle repairs.
§ 220-23. Fluids leaking from parked vehicles.
§ 220-24. Abandoned, wrecked and dismantled vehicles.
§ 220-25. Fire lanes.

ARTICLE IV
Snow Emergency Plan

§ 220-26. Parking on snow emergency routes.
§ 220-27. Parking on secondary streets.
§ 220-28. Operation of vehicles on snow emergency routes.
§ 220-29. Vehicle stalled on snow emergency route.
§ 220-30. Declarations of City Manager.
§ 220-31. Termination of parking prohibition.
§ 220-32. Conflicts with other laws.
§ 220-33. Signs designating snow emergency routes.
§ 220-34. Removal and impoundment of vehicles.
§ 220-35. Summons on vehicle in violation.
§ 220-36. Evidence with respect to vehicles in violation.
§ 230-37. Snow emergency routes designated.
§ 230-38. Violations and penalties.

ARTICLE V
Motorized scooters, Dirt Bikes, Unregistered Motorcycles and Similar Vehicles

§ 230-39. Definitions.
§ 230.40. Exclusions from article.
§ 230-41. Prohibited conduct.
§ 230-42. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 1-6-1969 as Ord. No. 200 (Ch. 47 of the 1968 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 201.

ARTICLE I
General Provisions

§ 220-1. Definitions.

The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except as hereinafter specifically provided:

BUSINESS DISTRICT -- The territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

COMMERCIAL MOTOR VEHICLES -- All motor vehicles, including semi-trailer and trailers, designed and used for carrying freight or merchandise or all motor vehicles used for carrying freight or merchandise in the furtherance of any commercial enterprise.

CROSSWALK -- Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface of that portion of a street included within the prolongation or connection of the lateral lines of sidewalks at intersections.

DISABLED -- Incapable of moving under its own power.

INTERSECTION -- The area embraced within the prolongation or connection of the lateral curblines or, if none, the lateral boundary lines of the roadways of two (2) streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

MOTORCYCLE (or similar vehicle) -- Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including minibikes, motorized scooters, and bicycles with motors attached.

MOTOR VEHICLE -- Every vehicle which is self-propelled, except vehicles operated exclusively upon rails.

OPERATOR -- Every person who is in actual control of a vehicle upon a street.

OWNER -- Includes any person owning a vehicle or having the exclusive use thereof under contract of purchase, lease, hiring or rental thereof or otherwise.

POLICE OFFICER -- Every officer authorized to direct or regulate traffic or to make arrests for violations of any of the provisions of this chapter.

PRIVATE ROAD OR DRIVEWAY -- Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.

RESIDENTIAL DISTRICT -- The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences.

ROADWAY -- That portion of a street improved, designed or ordinarily used for vehicular travel.

SIDEWALK -- That portion of a street between the curblines or the lateral lines of a roadway and the adjacent property intended for the use of pedestrians.
SNOW EMERGENCY ROUTES -- Those streets marked as such in accordance with the provisions of this chapter.

SNOW TIRES -- Any tires mounted on drive wheels of motor vehicles which are especially designed to give effective traction on snow-, mud- or ice-covered streets by means of extra-heavy-duty treads with special high-traction patterns, except that no tire so defined shall be construed to be a "snow tire" if it is damaged or worn to the extent that its performance would be substantially impaired.

STREET -- Includes all avenues, roads, highways, public thoroughfares, lanes, alleys and public ways within the city.

TIRE CHAINS -- Any metal chains mounted on drive-wheel tires of motor vehicles which cross the tread of each such tire laterally in at least three (3) different places.

VEHICLE -- Every device in, upon or by which any person or property is or may be transported or drawn upon a street, excepting devices used exclusively upon stationary rails or tracks.

WRECKED -- The vehicle is damaged to the extent that the cost of repairing the vehicle would be more than the market value of the vehicle in its damaged condition.

§ 220-2. Adoption of traffic regulations; signs.

A. The City Manager, except as otherwise directed by this chapter, shall have the power, with the approval of the Council, to:

(1) Regulate the operation and parking of vehicles within the corporate limits of the city by the erection or placing of proper signs or markers indicating limited or prohibited parking, restricted speed areas, one-way streets, through or arterial streets, stop streets, no U-turns, school zones, hospital zones, loading and unloading zones, quiet zones, other special interest zones and other signs or markers indicating the place and manner of operating or parking vehicles within the corporate limits of the city.

(2) Designate trucks routes and regulate the operation and parking of vehicles by size, class and/or weight. [Amended 1-5-1970 by Ord. No. 215]

(3) Designate bus stops and taxicab stands and erect signs prohibiting the parking of vehicles other than buses and taxicabs in such locations.

(4) Designate the streets for installation of parking meters and establish the hours and rates for parking meter use.

(5) Regulate the movement of pedestrians upon the streets and sidewalks of the city by the erection or placement of proper signs or markers indicating or controlling the flow of pedestrian traffic.

(6) Designate intersections at which traffic control devices shall be erected.

(7) Temporarily close any street or highway or portion thereof or restrict the use thereof or parking thereon when required by public safety or convenience.

(8) Designate snow emergency routes and prohibit stopping or parking thereon after giving notice to the public, by the best available means, of the implementation of the Snow Emergency Plan.

B. Regulations adopted in pursuance of this section shall be effective upon the erection of signs by, or authorized by, the City Manager sufficient in number to apprise the ordinarily observant person of the existence of the regulation upon the street or highway or in the district affected.

C. The existence of such signs or markers at any place within the corporate limits of the city shall be prima facie evidence that such signs or markers were erected or placed by and at the direction of the City Manager and in accordance with the provisions of this chapter.

§ 220-3. Compliance with signs.

No person shall park, operate or drive any vehicle upon the streets or alleys of the city contrary to the direction of authorized signs posted upon such streets and alleys.

§ 220-4. Compliance with traffic control signals.

All vehicles moving over, across or upon intersecting streets within the city at which traffic is controlled and regulated by an electrically lighted and operated traffic control signal shall come to a stop at such intersections and shall not move over, across or upon any of such intersections during the operation of any such signal while either the amber or red light facing such vehicle shall be illuminated. Such vehicle shall not move in any direction over, across or upon any of such intersections unless and until the green light facing such vehicle shall be illuminated.

§ 220-5. Bicycles.[1]

Every person riding a bicycle upon a roadway shall be subject to such provisions of this chapter pertaining to rules of the road and obedience to traffic control devices and signals as may be applicable to the driver of a vehicle, except such as by their nature have no application.

§ 220-6. Reports and notices of violations.

A. Report of violations.

(1) It shall be the duty of the police officers of the city, with reference to vehicles parked, operated or driven in violation of this chapter or rules and regulations adopted pursuant thereto, to report:

(a) The state license number of any such vehicle.

(b) The nature of the violation and the time and place thereof.

© Any other facts a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

(2) In every case, each police officer making such a report also shall deliver to the operator of such vehicle a notice that such vehicle has been operated or driven in violation of this chapter and instructing such operator to appear at the Trial Magistrate's Court for the city at the time and on the date specified in such notice with regard to such violation.

[1]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

B. In the case of a parking violation, each police officer making such a report shall also attach to such vehicle or deliver to the operator thereof, if present in the vehicle, a notice to the owner thereof that such vehicle has been illegally parked and instructing such owner where and when he or she may make payment of the penalty for such violation and the amount of the penalty therefor. The report and notice referred to shall bear corresponding serial numbers and shall be accounted for by the respective police officers to the Chief of Police, who in turn shall be held accountable for the same to the City Clerk.

§ 220-7. Authority of police to summon witnesses.

All police officers shall have the authority to summon witnesses to give testimony under oath upon any charge preferred under this chapter.

§ 220-8. Disposition of traffic and parking receipts.

All fines received by the city for violation of the provisions of this chapter, together with all parking meter receipts, shall be deposited in a separate account, to be known as the "Parking Meter and Traffic Fund," and shall be expended by the Council solely for the purchase, installation, operation and maintenance of parking meters, parking lots, traffic signs and other traffic control devices or such capital expenditures as may be authorized by the Council; provided, however, that no part of this fund shall be used for the payment of the day-to-day operating costs of the city.

ARTICLE II
Vehicle Operation

§ 220-9. Compliance with school crossing guards. [Amended 2-20-1989 by Ord. No. 3002

It shall be unlawful for any person to operate or drive any motor vehicle upon any street, alley or other public way of the city in violation of the direction of a school crossing guard controlling the movement of traffic.

§ 220-10. Driving over or upon sidewalk or curb.

It shall be unlawful for any person to operate or drive any vehicle over, upon or along any sidewalk or curb except at alleys or other defined crossing points.

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[2]**Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**

§ 220-11. Cleated vehicles.3

It shall be unlawful for the operator of any vehicle having metal cleats attached to the treads thereof or metal-cleated wheels thereon to drive the same over or upon any street, alley or other public way of the city without first having obtained permission, in writing, from the City Manager so to do.

§ 220-12. Motorcycles.4

A. It shall be unlawful to remove baffle plates from a motorcycle or to race the motor of a motorcycle at any time of the day or night.

B. All motors of a motorcycle must be turned off while not in motion except when stopping for stop signs, traffic signals or normal traffic conditions.

§ 220-13. Diesel-powered vehicles. [Amended 2-20-1989 by Ord. No. 300]

No person shall cause or permit the diesel engine on any bus, truck or other vehicle operating in the city to idle more than fifteen (15) minutes in any one (1) period when not in use performing its intended function as a source of locomotive power, except when such vehicle is forced to remain motionless because of traffic conditions over which the operator has no control.5

§ 220-14. Riding upon portions of vehicles not designated therefor. [**Amended 2-20-1989 by Ord**. **No**. **300**]

It shall be unlawful for any person to ride upon any portion of a vehicle not designated or intended for the normal use of passengers when the vehicle is in motion on any street, alley or other public way of the city.6

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[3]**Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**

[4]**Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**

[5]**Editor's Note: The following original sections, which immediately followed this section, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I: § 47-22, Restrictions on operation of vehicles hauling escaping or uncovered loads, as amended 2-20-1989 by Ord. No. 300, and § 47-23, Restrictions on towing of other vehicles and objects, as amended 2-20-1989 by Ord. No. 300.**

6

Editor's Note: The following original sections, which immediately followed this section were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I: § 47-25, Impeding traffic prohibited, as amended 2-20-1989 by Ord. No. 300; § 47-26, Following fire apparatus prohibited, as amended 2-20-1989 by Ord. No. 300; and § 47-27, Violations and penalties, as amended 2-20-1989 by Ord. No. 300.

ARTICLE III
Parking, Stopping and Standing

§220-15.7Private ways.8
No person shall park, place or leave parked any motor vehicle on any portion of any private street, alley or other private way so as to obstruct the entrance or use thereof without the express permission of the owner thereof, his or her tenant or agent.

§ 220-15.1 Parking on publicly and privately owned parking lots and towing vehicles. [Added Oct. 21, 1996 by Ord. No. 343]

A. No person shall park or leave parked, any motor vehicle on any publicly owned or privately owned parking lot within the corporate limits of Pocomoke City in violation of the terms and conditions of a sign conspicuously posted on such parking lot by the owner, operator, tenant or other person with authority to regulate parking of vehicles on such parking lot, when such sign meets the requirements of Subsection B of this Section.

B. Signs.

(a) The owner, operator, tenant, or other person with authority to regulate parking on publicly or privately owned parking lots may not have a vehicle towed or otherwise removed from the parking lot unless signs have been placed in one or more conspicuous locations as described in Subsection B(b) of this Section, and the signs conform, as a minimum, to the following:

(1) Are at least 24 inches high and 30 inches wide;
(2) Are clearly visible to the driver of a motor vehicle entering or being parked in the parking lot;
(3) State the hours of each day of the week when parking restrictions apply and the exact restrictions which apply to the lot including that a vehicle parking in violation may be towed;
(4) State the location to which the vehicle will be towed or removed, which location may not be more than five (5) miles from the parking lot;
(5) State the hours during which the vehicle may be reclaimed;
(6) State the maximum amount that the owner of the vehicle may be charged for the towing or removal of the vehicle and for storage of the vehicle, which amount may not exceed for towing more than twice the amount of the total fees normally charged for towing vehicles within the City and the sum of $10.00 per day storage for vehicle up to 20 feet in length, $20.00 per day for vehicles 21 to 40 feet and $30.00 per day for vehicle over 41 feet in length.

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[7]Editor's Note: Original § 47-40, Manner of parking generally, which immediately preceded this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[8]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

(7) Provide the telephone number of a person who can be contacted to arrange for the reclaiming of the vehicle by its owner or owner's agent.

(8) That the owner of the vehicle shall bear the liability for the costs of towing, removal and storage of the vehicle.

(9) That an improperly parked vehicle will be subject to a lien for towing and storage until the owner or owner's agent pays the tow truck operator the costs for towing and storage allowed by this Section.

(b) Location.

A sign shall be placed so that it is clearly visible from each entrance to the parking lot, with additional signs for every 10,000 square feet of parking area in excess of the first 10,000 square feet of parking area shall be placed within that parking lot area.

C. Towing or Removing Vehicles.

Any person who undertakes to tow or remove a vehicle from a publicly owned or privately owned parking lot within the City shall comply with the following:

(1) Shall have authorization from the owner, operator, tenant or other person with authority to regulate parking of vehicles on the parking lot which authorization shall name the tow truck operator and the person authorizing the towing or removal and state that the owner, operator, tenant or other person with authority to regulate parking of vehicles or the parking lot has posted signs in compliance with this § 220-15-A and requests the removal of vehicle parked in violation of this § 220-15-A.

(2) Shall notify the Pocomoke City Police Department within two (2) hours of the towing or removal of the vehicle and provide a description of the vehicle, the license number and vehicle identification number (VIN), the location from which the vehicle was towed, the time of towing and place where the vehicle is being stored or held.

(3) May not charge the owner of the vehicle any fees in excess of those allowed by this §220-15-A.

(4) Shall maintain a policy of commercial liability insurance in an amount of at least $50,000 per occurrence to cover the costs of any damage to the vehicle resulting from the person's negligence.

(5) Shall provide the owner of the vehicle or the owner's agent immediate and continuous opportunity to retake possession of the vehicle.

D. Penalties.

(1) The owner, operator, tenant or other person with authority to regulate parking of vehicles or the parking lot may, in addition to or in lieu of having the vehicles towed or removed, request the Pocomoke City Police Department issue a municipal infraction citation for the vehicles parked in violation of the restrictions posted on the signs.

(2) The Pocomoke City Police Department is hereby authorized to issue municipal infraction citations if requested to do so provided in subsection D(1).

§ 220-16. Public building entrances.

A. It shall be unlawful for the operator of a motor vehicle to stop or park such vehicle on any street, alley or other public way within the space of twenty (20) feet from either side of the center of the main entrance of the public buildings in the city. All of the spaces in which parking is so prohibited shall be marked and indicated by painting the curb yellow or by the placing of appropriate signs.[9]

B. For the purpose of this section, the term "public building" shall include all churches, hotels, railroad stations, theaters and all buildings owned or occupied by departments of the city, county, state or federal government.[10]

§ 220-17. Motor trucks and commercial vehicles.

No person shall park any motor truck or commercial vehicle for more than two (2) hours on any public street of the city between 11:00 p.m. and 7:00 a.m.

[Continued on Page 22008]

[9]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[10]Editor's Note: Original § 47-43, Double parking, prohibition against; exceptions, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 220-18. Parking while mechanical refrigeration is in operation; exception.

A. No person shall park any motor truck or commercial vehicle equipped with a mechanical refrigeration device for more than two (2) hours on any public street of the city while such mechanical refrigeration device is in operation.

B. Nothing contained in this section shall be construed to apply to the parking of motor trucks or commercial vehicles loaded with farm products and waiting in line, attended by a driver, for the purpose of delivering produce to any auction block, cannery or other food-processing plant located in the city.

§ 220-19. Trailers.

No person shall park or leave standing any trailer on any street, alley or other public way of the city for longer than two (2) hours, except in an emergency caused by mechanical failure, in which event the foregoing period of time shall be extended to six (6) hours.

§ 220-20. Commercial vehicles in residential districts.

It shall be unlawful for the operator of any commercial vehicle to park said vehicle on any street, alley or public way in any residential area of the city for a period of time longer than necessary for the purpose of loading or unloading said vehicle.

§ 220-21. Time limit. [Amended 4-18-1988 by Ord. No. 295]

It shall be unlawful for the owner or operator thereof to park or leave standing any vehicle on any street, alley or public way for a longer period of time than seventy-two (72) hours when to do so creates a nuisance or interferes with the lawful use by others of the street, alley or public way.

§ 220-22. Major vehicle repairs.

It shall be unlawful for any person or persons to make major repairs or overhaul any vehicle on any street, alley or public way.

§ 220-23. Fluids leaking from parked vehicles.

It shall be unlawful for any person or persons to park or leave standing upon any street, alley or other public way any vehicle from which an excessive amount of grease, oil, gasoline or other petroleum product may leak and be deposited or spread upon any such street, alley or public way.[11]

§ 220-24. Abandoned, wrecked and dismantled vehicles.

A. No person shall abandon any vehicle within the city, and no person shall leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

B. No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the city.

C. No person in charge or control of property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked or discarded vehicle to remain on such property longer than twenty-four (24) hours, and no person shall leave any such vehicle on any property within the city for a longer time than eight (8) hours, except that this subsection shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

D. The Chief of Police or any member of his or her department designated by him or her is hereby authorized to remove or have removed any vehicle left in any place within the city which reasonably appears to be in violation of this section or lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with § 25-201 et seq. of the Transportation Article of the Annotated Code of Maryland.[12]

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[11]Editor's Note: Original § 47-51, Unlawful to park inoperable vehicle, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[12]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The following original sections, which immediately followed this section, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I: § 47-53, Impounding of vehicles, and § 47-54, Violations and penalties, as amended 2-20-1989 by Ord. No. 300.

§ 220-25. Fire lanes. [Added 2-2-1987 by Ord. No. 29113

A. Definitions. For the purpose of this section, terms hereinafter set forth shall be defined as follows:

EMERGENCY VEHICLE -- A vehicle so designated or authorized by the Administrator of the State Motor Vehicle Administration.

FIRE LANE -- A designated lane required to be permanently open for the ingress or egress of Fire Department and other emergency vehicles only in order that fires may be prevented or controlled and exitways kept unobstructed for safety of life.

FIRE MARSHAL -- That person designated under Chapter 132, Fire Prevention, of the Code of Pocomoke City, Maryland.

B. Designation of fire lanes; penalty for tampering with signs.

(1) When he or she deems it necessary, the Fire Marshal shall designate fire lanes on public streets and on private property used for commercial, industrial or apartment projects for the purpose of preventing parking in front of or adjacent to fire hydrants or to provide access for fire-fighting equipment. He or she shall also designate fire lanes on private property used by the public in general for the purpose of preventing parking in front of or adjacent to fire hydrants or to provide access for fire-fighting equipment.

(2) Posting of signs. The Fire Marshal shall cause the owner to post sufficient signs at all established fire lanes, the notice to read: "No Parking. Fire Lane." Such sign(s) shall not be removed without written permission of the Fire Marshal.

C. Duty of property owner. The property owner is hereby directed, wherever necessary to secure compliance with the terms of this section, to furnish and erect appropriate signs as directed and to give appropriate warning or notice concerning unlawful obstruction as set forth herein and, if necessary in order to enforce compliance, to cause the removal, by towing away or otherwise, of any debris, vehicles or other objects which interfere with or obstruct previously established and marked fire lanes or fire hydrants for the access or operation of any Fire Department equipment or other emergency vehicles or equipment.

D. Obstruction of fire lanes, parking, etc. It shall be unlawful for any person or for any property owner whose private property is used by the public in general to obstruct or interfere or to allow the obstruction of or interference with the operation of any emergency vehicle or equipment or to obstruct or to allow the

[13] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

obstruction of access by emergency equipment to any fire hydrant, to any Fire Department connection or to any designated fire lane on either public or private property or to park or to allow parking within any fire lane.[14]

ARTICLE IV[15]Snow Emergency Plan

§ 220-26. Parking on snow emergency routes.

A. Whenever the City Manager finds, on the basis of falling snow, sleet or freezing rain or on the basis of a forecast by the United States Weather Bureau of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snowplowing and other purposes, the City Manager shall put into effect a parking prohibition on parts of or all snow emergency routes as necessary by declaring it in a manner prescribed by this Article.

B. Notwithstanding the provisions of Subsection A hereof, a parking prohibition shall automatically go into effect on any part of any snow emergency route on which there has been an accumulation of snow and ice of four (4) inches or more for one (1) hour or more, between 6:00 a.m. and 11:00 p.m. of any day.

C. Once in effect, a prohibition under this section shall remain in effect until terminated by announcement by the City Manager in accordance with this Article, except that any street area which has become substantially clear of snow and ice from curb to curb for the entire length of the entire block shall be automatically excluded therefrom. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a snow emergency route to which it applies. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

§ 220-27. Parking on secondary streets.

A. Whenever the City Manager finds, on the basis of falling snow, sleet, freezing rain or on the basis of a forecast by the United States Weather Bureau of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snowplowing and other purposes, the City Manager shall put into effect a parking prohibition on parts of or all secondary streets, as necessary, by declaring it in a manner prescribed by this Article. The prohibition shall remain in effect until terminated by announcement of the City Manager in

[14]Editor's Note: Original § 47-56, Handicapped parking spaces, as amended 2-20-1989 by Ord. No. 300, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[15]Editor's Note: Original Article IV, Parking Meters, consisting of §§ 47-65 through 47-72, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

accordance with this Article, except that any street area which has become substantially clear of snow and ice from curb to median line for a length of the entire block shall be automatically excluded therefrom.

B. While the prohibition is in effect, no person shall park, or allow to remain parked, any vehicle on any street to which it applies during the time from 12:01 a.m. until 8:00 p.m. of any day, except as permitted below:

(1) Vehicles may be parked on the side of the street with uneven street numbers on days with names that have the letter "u" in their spellings, i.e., Sunday, Tuesday, Thursday and Saturday.

(2) Vehicles may be parked on the side of the street with even street numbers on days with names that do not have the letter "u" in their spellings, i.e., Monday, Wednesday and Friday.

C. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

§ 220-28. Operation of vehicles on snow emergency routes.

A. No person operating a motor vehicle on a snow emergency route on which there is a covering of snow, sleet or ice shall allow such vehicle to become stalled, wholly or partly, because the drive wheels thereof are not equipped with effective tire chains or snow tires.

B. No person operating a motor vehicle on a part of a snow emergency route on which there is a covering of snow, sleet or ice or on which there is a parking prohibition in effect shall allow such vehicle to become stalled because the motor fuel is exhausted or the battery has become inoperative.

§ 220-29. Vehicle stalled on snow emergency route.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this Article, on any part of a snow emergency route on which there is a covering of snow, sleet or ice or on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such snow emergency route, either into the first cross street which is not a snow emergency route or onto the public space portion of a nearby driveway. No person shall abandon or leave his or her vehicle in the roadway of a snow emergency route (regardless of whether he or she indicates, by raising the hood or otherwise, that the vehicle is stalled), except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station or other place of assistance and return without delay.

§ 220-30. Declarations of City Manager.

A. The City Manager shall cause each declaration made by him or her pursuant to this Article to be publicly announced by means of broadcast or telecast from a station with a normal operating range covering the city, and the City Manager may cause such declaration to be further announced in newspapers of general circulation when feasible. Each announcement shall describe the action taken by the City Manager, including the time it became or will become effective, and shall specify the streets or areas affected. A parking prohibition declared by the City Manager shall not go into effect until at least three (3) hours after it has been announced at least six (6) times between 6:00 a.m. and 11:00 p.m. in accordance with this section.

B. The City Manager shall make or cause to be made a record of each time and date when any declaration is announced to the public in accordance with this section.

§ 220-31. Termination of parking prohibition.

Whenever the City Manager shall find that some or all of the conditions which give rise to a parking prohibition in effect pursuant to this Article no longer exist, the City Manager may declare the prohibition terminated, in whole or in part, in a manner prescribed by this Article, effective immediately upon announcement.

§ 220-32. Conflicts with other laws.

Any provision of this Article which becomes effective by declaration of the City Manager or upon the occurrence of certain weather conditions shall, while temporarily in effect, take precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles or emergency traffic directions by a police officer.

§ 220-33. Signs designating snow emergency routes.

On each street designated by this Article as a snow emergency route the City Manager shall post special signs at intervals not exceeding five hundred (500) feet with the wording "Snow Emergency Route. No Parking During Emergency Period." These signs shall be distinctive and uniform in appearance and shall be plainly readable to persons traveling on the street or highway.

§ 220-34. Removal and impoundment of vehicles.

A. Members of the Police Department are hereby authorized to remove or have removed a vehicle from a street to the nearest garage or other place of safety (including another place on a street) or to a garage designated or maintained by the Police Department or otherwise maintained by the city when:

(1) The vehicle is parked on a part of a snow emergency route on which a parking prohibition is in effect.

(2) The vehicle is stalled on a part of a snow emergency route on which there is a covering of snow, sleet or ice or on which there is a parking prohibition in effect and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this Article.

(3) The vehicle is parked in violation of any parking ordinance or provisions of law and is interfering or is about to interfere with snow removal operations.

B. Whenever an officer removes or has a vehicle removed from a street, as authorized in this section, he or she shall proceed in accordance with the provisions of § 25-201 et seq. of the Transportation Article of the Annotated Code of Maryland.[16]

C. It shall be the duty of the Police Department to keep a record of each vehicle removed in accordance with this section. The record shall include a description of the vehicle, its license number, the date and time of its removal, where it was removed from, its location, the nature and address of its owner and last operator, if known, its final disposition and the parking violation involved.

D. This section shall be supplemental to any other provisions of law granting members of the Police Department authority to remove vehicles.

§ 220-35. Summons on vehicle in violation.

Whenever any motor vehicle without a driver is found parked or left in violation of any provision of this Article and is not removed and impounded as provided for in this Article, the officer finding such vehicle shall take its registration number and any other information displayed on the vehicle which may identify its user and shall conspicuously affix to such vehicle a traffic summons for the driver to answer to the charge against him or her at the time and at the place specified in the summons.

[16]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 220-36. Evidence with respect to vehicles in violation.

In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this Article, proof that the particular vehicle described in the summons was parked or left in violation of a provision of this Article, together with proof that the defendant named in the summons was at the time the registered owner of such vehicle, shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this Article.

§ 220-37. Snow emergency routes designated.

The following streets or portions of streets within the city are hereby designated as snow emergency routes: Cedar Street, Clarke Avenue, Fourth Street, Market Street and Second Street.

§ 220-38. Violations and penalties. [Amended 2-20-1989 by Ord. No. 30017

A. Violations of § 220-25C of this chapter shall be a municipal infraction and shall be governed by the provisions of Chapter 1, General Provisions, Article V, Municipal Infractions, of the Code of Pocomoke City, Maryland, and any property owner found to have committed said municipal infraction shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time.18Each and every day that a property owner shall be in violation shall constitute a separate offense.

B. Violations of § 220-25D of this chapter shall be handled in accordance with the provisions of the Maryland Annotated Code, Transportation Article, Title 26, Subtitle 3, as amended from time to time, and any person who violates § 220-25D of this chapter shall, upon conviction thereof, be punishable by a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time.

C. Except as otherwise provided in Subsections A and B, any violation of Article II, Article III or Article IV of this chapter shall constitute a municipal infraction in accordance with Chapter 1, General Provisions, Article V, Municipal Infractions, of the Code of Pocomoke City, Maryland, and the penalty for such violation shall be a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time.

[17]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[18]Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

Chapter 226

WATER

§ 226-1. Meters required.
§ 226-2. Connection to city water system.
§ 226-3. Water rates; bills.
§ 226-4. Private wells.
§ 226-5. Seasonal restrictions.
§ 226-6. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 8-26-1968 as Ch. 49 of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Plumbing -- See Ch. 183. **Sewers -- See Ch. 192.**

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§ 226-1. Meters required.

Every consumer of water from the water supply, treatment and distribution system of the City of Pocomoke City shall and is hereby required to have installed by the City of Pocomoke City a water meter in the consumer line.

§ 226-2. Connection to city water system.

A. Charges enumerated. **[Amended 2-1-1971 by Ord. No. 220, approved 2-2-1971]**

(1) **[Amended 8-13-1973 by Ord. No. 232]** The City Council shall establish connection charges, to be paid in advance by the consumer going on city mains, as follows:

(a) For a single-family residential connection, a fee in the amount as shall be determined by the Council by resolution[1] **[Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]**

(b) For installation involving commercial, industrial or multiple-family uses, the connection fee shall be determined by the City Manager based upon the costs to the city.

© There shall be a street opening charge in the amount as shall be determined by the Council by resolution. **[Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]**

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[1] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

(2) All of the above charges shall be paid to the Water Department Clerk.

(3) Each consumer shall be entitled to one (1) free inspection of his or her water meter in any twelve-month period. Any subsequent meter check requested by the consumer within the next succeeding twelve (12) months that confirms the accuracy of the meter shall be charged to the consumer at a rate as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time2 **[Added 5-17-1971 by Ord. No. 222, approved 6-2-1973]**

B. Discontinuance and resumption of service.

(1) Water service may be discontinued by any consumer for any period not less than one (1) calendar month (from the first of one month to the first of the following month or from the 15th of one month to the 15th of the following month) and for such additional months as requested upon due notice to the Water Department Clerk, whereupon the Water Department Clerk will direct the consumer's meter to be read and the service discontinued, and the consumer shall be billed at the next billing date for water metered. Upon the consumer's request for the resumption of water service, the Water Department Clerk will cause the meter to be read and the service turned on, and the Water Department Clerk will, at the next billing date, charge the consumer a fee, in an amount as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time, for restoration of service4 Failure of the consumer to pay this fee shall place his or her account delinquent, and service may be discontinued by the city in the same manner as provided in this chapter as if said consumer had become delinquent in payment of water metered and billed5

(2) No consumer shall turn on or turn off his or her water service without being in violation of this chapter and subject to the penalty as provided in § 226-6 hereof, except that the same may be turned off and turned on again under the circumstances as outlined in §226-2K hereof.

C. Applications for water and sewer connection permits shall be addressed to and be issued by the Water Department Clerk, and all consumers of the city water system and/or sewer system shall be served without discrimination but upon the express condition that if from any cause the supply of water fails, the city shall not be held liable for any damage which shall arise in consequence thereof.

D. All consumer connections to the city water system shall always be made by the city only.

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[2]Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

[3]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[4]Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

[5]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

E. All connection charges, service charges and fees collected and provided for in this section shall be credited to the city's General Water Revenue Account.

F. Service connections shall be from the main to the nearest property line, but said service line distance shall not exceed one hundred (100) feet. Beyond one hundred (100) feet the Council may, in its discretion, require additional service connection charges as established by it under § 226-2A herein.

G. In the event that it is determined more practical to install a service connection line across the property of any other person, firm or corporation, the consumer desiring the services shall provide the city with an easement of adequate width for the construction and maintenance of said line.

H. All service connection lines shall be and are hereby declared to be part of the city's water system and shall always remain the property of the City of Pocomoke City.

I. Nothing herein shall prevent the city from removing any service connection line for the purpose of relocating the same.

J. The installation of the water meters in the service connection line on the property of the consumer or on the property of another, as provided in Subsection G herein above, shall in no way vest the title of the meter in the owner or owners of the property upon which said meter is installed.

K. Turning on and turning off water supply.

(1) No person, firm or corporation shall turn on the consumer's supply of water after it has been turned off for any reason whatsoever by the City of Pocomoke City.

(2) Nothing herein shall prevent any person, firm or corporation, or the authorized employee, contractor or subcontractor of the consumer, from turning off said water supply for the purpose of repairs, extensions or modifications of the consumer's plumbing and thereafter, when completed, from turning the same back on.

(3) Any person violating the provisions of this Subsection K, even if authorized or directed by the consumer, shall be guilty of violating this chapter and shall be punished in accordance with penal provisions in § 226-6 hereafter.

§ 226-3. Water rates; bills. [Amended 1-20-1969 by Ord. No. 208; 2-1-1971 by Ord. No. 220, approved 2-2-1971]

A. Minimum water bill. Each water bill shall be rendered for an amount, not less than the amount as shall be determined by the Council by resolution, which will allow for the use or consumption of three thousand (3,000) gallons of water. Notwithstanding the foregoing, all duly recognized and established churches or houses of worship having and holding regularly conducted weekly religious services shall be entitled to an exemption for all water consumed up to the extent of five thousand (5,000) gallons per month but

shall pay all other applicable charges or bills**. [Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]**

B. Meter rates. [Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]

(1) The meter rates, as shall be determined by the Council by resolution, shall be applicable to all quantities of water used or consumed in excess of that allowed under the minimum bill[6]

(2) The above rates shall become effective upon the effective date of the resolution, and the City Manager shall make such proration of bills as shall be necessary to equitably put the new rates into full force and effect.

C. All meters shall be read on or about the first day of the month, and each consumer shall pay the amount billed on or before the 10th day of the following month[7]

D. All unpaid consumer accounts shall be delinquent at the close of business on the 10th day of the month following the month the bill is rendered, and the water service may be discontinued by the city and shall not again be restored until all sums due the city have been paid in full, plus an additional charge or fee, in the amount as shall be determined by the Council by resolution, for restoring or turning on the consumer service. **[Amended 7-7-1980 by Ord. No. 262, approved 7-7-1988]**

E. Staggered meter reading and billing.

(1) Nothing in this section shall prevent the Water Department Clerk, with the consent of the City Manager, from districting or zoning the city for the purpose of staggering the reading of meters and billing for water consumed. However, no meter shall be read or consumer billed for metered water for less than a month after districting or zoning is complete unless service has been discontinued by the consumer under § 226-2B.

(2) In case of staggered meter reading and billing, the consumer shall pay the amount billed on or before the 30th day following the period for which billed. The provisions set forth in Subsections C and D above shall also apply to this subsection in every respect as if the provisions herein had therein been specifically provided for.

F. All water bills or accounts shall be paid to the Water Department Clerk of Pocomoke City during the business hours of the office. The City Manager shall cause receipts to be issued for all sums paid on water accounts. The City Manager is authorized to adjust water accounts when, in his or her judgment, an error has been made in the consumer's charges.

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[6] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

[7] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[8] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

G. All bills shall be sent to the property owner shown upon the city's tax assessment books. All bills not paid by the last day of the month following the month of billing shall draw interest thereafter until paid at the rate of one-half of one percent (½ of 1%) per month, or fraction thereof, and all such bills not so paid shall be added to the next annual tax bill of each said owner, and the City Clerk shall not accept payment for or receipt of said tax bill unless the amount so assessed against said owner, with interest thereon, is included in the amount paid. The property owner may request, in writing, that the bill be sent to another person, and upon such request the Water Department Clerk shall render all bills therefor to the person or persons designated until advised, in writing, to the contrary, provided that the property owner shall at all times be responsible for any such bill.

§226-4. Private wells. [Amended 5-17-1971 by Ord. No. 222, approved 6-2-1971]

A. In the city and in all areas outside the city served by the city's water system, private water wells shall be permitted for outside irrigation purposes, refrigeration cooling purposes, the filling of swimming pools and for no other purposes, subject to the provisions of this chapter, and provided that under no circumstances shall the private, untreated water system be connected to the city water system and that any such well shall be limited to a depth of thirty (30) feet below normal ground level.

B. A written permit shall be obtained from the City Manager of Pocomoke City for each private well.

C. The initial fee for a permit required for a private well shall be in the amount as shall be determined by the Council by resolution, and the permit shall be renewed annually after inspection of the facilities. The annual permit renewal fee for each well shall be in the amount as shall be determined by the Council by resolution[9] **[Amended 7-7-1980 by Ord. No. 262, approved 7-7-1980]**

D. Notwithstanding any of the provisions of this section, the use or replacement of private wells for industrial purposes may be permitted only upon specific prior approval of the City Council after formal application thereto and hearing thereon at one (1) or more regular meetings of the Council. Such Council approval shall be evidenced by a resolution adopted by the Council and spread upon its minutes. Such resolution shall set forth in precise terms the exact size, location, depth, use or uses and all other pertinent details with respect to the particular private well approval. Such resolution may also specify initial permit fees and annual permit renewal fees greater than those provided in Subsection C hereof.

§ 226-5. Seasonal restrictions. [Added 1-20-1969 by Ord. No. 208]

It shall be unlawful for any person, firm or corporation in Pocomoke City from the first day of May to and including the 30th day of September in any year to use or operate a hose or sprinkling system of any type whatsoever for the purpose of wetting, washing or sprinkling lawns, pavements, streets or any other object or thing outside a dwelling house or place of business except during the hours of 8:00 a.m. to 10:00 a.m. and the hours of 6:00 p.m. to 8:00 p.m. daily.

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[9]Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

§ 226-6. Violations and penalties. [Added 1-20-1969 by Ord. No. 2010]

Any person, firm or corporation who or which shall violate the provisions of this chapter shall, upon conviction thereof, be guilty of a municipal infraction and shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, adopted by resolution of the City Council from time to time11

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[10] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[11] Editor's Note: The current Fees, Charges and Rates Schedule is on file in the City Clerk's office.

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GENERAL REFERENCES

Comprehensive Development Plan -- See Ch. 27.
Planning and Zoning Commission -- See Ch. 67.
Building construction -- See Ch. 101.
Floodplain management -- See Ch. 135.
Forest conservation -- See Ch. 137.
Grading and sediment control -- See Ch. 140.
Stormwater management -- See Ch. 198.
Subdivision of land -- See Ch. 205.

ARTICLE I General Provisions

§ 230-1. Title.

This chapter shall be known as the "Pocomoke City Zoning Ordinance."

§ 230-2. Purpose.

The purpose of this chapter is to:

A. Promote the health, safety, morals and general welfare of the community of Pocomoke City by providing for adequate light and air.

B. Prevent the overcrowding of land and undue concentration of population.

C. Lessen congestion in the streets.

D. Secure safety from fire, panic and other dangers.

E. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

F. Conserve the value of property.

G. Encourage the most appropriate use of land throughout the city in accordance with a comprehensive plan and by other means.

§ 230-3. Applicability.

This chapter shall apply to all lands, buildings and properties lying within the corporate boundaries of Pocomoke City, Maryland; provided, however, that it shall not apply to land owned by Pocomoke City or to buildings and other structures located or constructed thereon or to the use of either where the Council, following a public hearing advertised in the same manner as provided in § 230-106, has determined that any noncompliance, subject to any conditions imposed by the Council, is reasonably necessary or convenient to the public health, safety or general welfare.

§ 230-4. Interpretation of provisions.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements not intended to prohibit the use or application of higher standards; but where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by

other rules, regulations or ordinances or by private restrictions, the provisions of this chapter shall control.

ARTICLE II Terminology

§ 230-5. Definitions and word usage.

A. In general, the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used"; and the word "shall" is mandatory and not directory.

B. In the interpretation and construction of this chapter, certain words and phrases shall be understood to have particular or limited meanings as herein defined, except where the context otherwise requires:

ACCESSORY USE OR STRUCTURE -- A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building or land use, but specifically excluding towers as an accessory use or structure.

ADULT DAY CARE CENTER- - A place where an individual or organization provides daytime supervision for adults.

AGRICULTURE -- The use of land for agricultural purposes, including farming, horticulture and floriculture only.

ALLEY -- A public or private way affording secondary means of access to abutting property.

ASSITED LIVING FACILITY - - A facility where adults reside under the supervision of other adults who assist the residents with everyday necessities.

BASEMENT -- A story where the floor is more than twelve (12) inches but not more than one-half (1/2) of its story height below the average level of the adjoining ground (as distinguished from a cellar, which is a story more than one-half (1/2) below such level).

BED AND BREAKFAST-- A part of a dwelling where overnight lodging or sleeping accommodations are provided, along with the breakfast meal only, to transient guests.

BILLBOARD and SIGN:

(1) BILLBOARD -- Any structure or portion thereof situated on private premises on which lettered, figured or pictorial matter is displayed for advertising purposes, other than the name and occupation of the user of such premises or the nature of the business conducted thereon or the principal products sold or manufactured thereon.

(2) REAL ESTATE SIGN -- A billboard or signboard advertising for sale or rent the premises on which located.

BOARD -- The Board of Appeals (the Board) established hereunder.

BOARDINGHOUSE or LODGING HOUSE -- A dwelling or part thereof where meals and/or lodgings are provided for compensation for persons not transients.

BUILDING -- Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons or chattels. When such a structure in single ownership is divided by one (1) or more unpierced walls extending from the ground up, it shall be considered one (1) "building" for the purpose of applying the provisions of this chapter.

BUILDING, HEIGHT OF -- The vertical distance from the average finished grade at the building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

CELLAR -- A story having more than one-half (1/2) of its height below average finished grade. A "cellar" is counted as a story for the purpose of height regulations only if used as a separate dwelling.

COMMUNITY RESIDENTIAL FACILITY (GROUP HOME) -- Any dwelling licensed, certified or authorized by state, federal or local authorities as a residence for children or adults with physical, developmental or mental disabilities, dependent children or elderly individuals in need of supervision, support and/or independent living training. Does not include: Secure Community Transition Facility, Halfway House or Community Treatment Facility.

COMMUNITY TREATMENT FACILITY (REHABILITATION HOUSE): Any dwelling or building licensed, certified or authorized by State, Federal or local authorities as a residence and treatment facility for children or adults with mental disabilities, alcoholism or drug abuse problems, needing a supervised living arrangement and rehabilitation services on a short-term or long-term basis. Does not include halfway houses, or secure community transition facilities.

COMPREHENSIVE DEVELOPMENT PLAN -- A comprehensive set of plans, specifications and measures for the private and/or public development of an industrial park, cluster development, apartment project, shopping center or other planned development permitted in this chapter. The development plan shall include:

(1) A site plan showing the location of all streets, pedestrianways, rail lines, utility systems, landscaped areas, parcel lines, building areas, entrances and exits to be provided.

(2) Any restrictions to be included in the sale or lease of land for parking, building location, property maintenance, sign control and any other protective measures.

(3) A schedule for the development of streets, grading, utility installation, rail facilities, docking facilities or other improvements to be provided for the project area and occupants thereof.

(4) A statement of intent to proceed and of the financial capability of the developer and sponsor.

CONDITIONAL USE -- A use which may be permitted in a district through the granting by the Board of Appeals of a special exception as defined in § 1.00, Definitions, of Article 66B of the Annotated Code of Maryland, as amended, upon a finding by the Board that it meets specified conditions.[1]

CONDOMINIUM -- Property subject to the condominium regime established under the Maryland Condominium Act, Title 11 of the Real Property Article of the Annotated Code of Maryland.

CONSTRUCTION, STARTING OF -- The combining of labor and material into any portion of the structure on the site thereof.

COURT -- An open, unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

DAY-CARE CENTER -- A single-family dwelling unit or other separate building in which daytime adult supervision is provided for more than eight (8) children, not members of the caregiver's family, under the age of sixteen (16) and in which the caregiver may or may not reside.

DRY NIGHTCLUB -- An establishment in which the primary use is as a gathering place for people regardless of age limitations for purposes of entertainment, dancing, social discourse and other social activities in the nature of those generally associated with social clubs, nightclubs, dance halls and after hours clubs as American Culture has defined by historical experience but not including theaters, schools, bonafide service clubs, or churches and establishments holding alcoholic beverage what constitutes a Dry Nightclub.

DISTRICT -- A portion of the municipality within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter. The term "R District" shall mean any R-1, R-2 or R-3 District; the term "B District" shall mean any B-1 or B-2 District; and the term "M District" shall mean the M-1 District.

DWELLING -- Any building or portion thereof occupied or intended to be occupied exclusively for residence purposes, but not including a tent, cabin, trailer or mobile house or a room in a hotel or motel.

DWELLING, MULTI-FAMILY -- A detached building designed for or used exclusively for residence purposes by more than two (2) families or housekeeping units. The term includes apartments, flats, row apartments and condominiums, among others.

DWELLING, SINGLE-FAMILY -- A detached building designed for or used exclusively for residence purposes by one (1) family or housekeeping unit.

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[1]Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

DWELLING, TWO-FAMILY -- A detached building designed for or used exclusively for residence purposes by not more than two (2) families or housekeeping units.

ESSENTIAL SERVICES -- Facilities owned or maintained by public utility companies or public agencies, located in public ways or in easements provided for the purpose or on a customer's premises and not requiring a private right-of-way, and reasonably necessary for the furnishing of adequate water, sewer, gas, electric, communication or similar services to adjacent customers, but not including any building or any yard, station or facility requiring a site in excess of four hundred (400) square feet and not including any cross-country pipeline or transmission line on towers or the tower itself, or any line requiring a private right-of-way.

FAMILY -- A person living alone or two (2) or more persons living together as a single housekeeping unit, but not including a group of persons occupying a boardinghouse, lodging house, hotel, dormitory, institution, group home, halfway house, rehabilitation house or similar use.

FAMILY DAY-CARE PROVIDER HOME -- A single-family dwelling unit in which daytime adult supervision is provided for up to eight (8) children, including children of the occupant, under six (6) years old and other children who are not members of the caregiver's family under the age of sixteen (16) and in which the caregiver regularly resides.

FARM -- A parcel of land not less than five (5) acres in size used for agricultural purposes as defined in "agriculture" (see above).

GARAGE, PRIVATE -- A garage intended for and used for the storage of the private motor vehicles of the families resident upon the premises.

GARAGE, PUBLIC -- A space or structure, other than a private garage, for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers.

GOVERNMENT BUILDINGS -- Buildings owned or leased by a City, County or State government organization or agency.

KENNEL, COMMERCIAL -- A commercial operation that (a) provides food and shelter and care of domestic animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (b) engages in the breeding of domestic animals for sale, or (c) any place where more than two adult domestic animals (over 6 months) are kept for a boarding or other fee, or (d) any place where more than four (4) adult domestic animals are kept for any purpose.

LAND USE PLAN -- The long-range plan for desirable use of land, as officially adopted and as amended from time to time by the Planning and Zoning Commission, the purpose of such plan being, among other purposes, to serve as a guide in zoning and progressive changes in the zoning of land to meet changing community needs, in the subdividing and use of undeveloped land and in the acquisition of right-of-ways or sites for such public facilities as streets, parks, schools and public buildings.

LOT -- Any plot or parcel of land occupied or intended to be occupied by a principal building or use, or a group of buildings, conforming to the regulations of this chapter and its accessory buildings and uses, including all open spaces required by this chapter, and having frontage on a street as defined herein. In the case of a farm or estate five (5) or more acres in size, the "lot" shall be deemed to be that part of the property on which the principal building and its accessory buildings and uses are located, together with the yards and other open spaces required by this chapter, and such "lot" need not front directly on a public road if connected therewith by a private lane or road which serves no other lot.

LOT, CORNER -- A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street and in either case forming an interior angle of less than one hundred thirty-five degrees (135°).

LOT DEPTH -- The mean horizontal distance between the front and rear lot lines.

LOT LINE, FRONT -- The line separating the lot from the street upon which it fronts.

LOT LINE, REAR -- The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE -- Any lot line other than a front or rear lot line.

LOT LINE, STREET OR ALLEY -- Any lot line separating the lot from a street or alley.

LOT, THROUGH -- A lot having frontages on two (2) nonintersecting streets, as distinguished from a corner lot.

LOT WIDTH -- The width of the lot measured at right angles to its center line at the front setback line.

MOTEL -- Any establishment consisting of two (2) or more guest rooms or suites, with separate outside entrances and adjacent parking spaces, designed and maintained for the accommodation of transients; or any establishment for the accommodation of transients which proclaims itself a "motel."

NONCONFORMING USE -- An existing building, structure or premises legally devoted to or occupied by or for a use that does not conform to the provisions of this chapter or amendments thereto for the district in which located.

NURSERY SCHOOL -- A place where an educational organization provides formal instruction, maintains a regular faculty and curriculum and has a regularly enrolled body of students less than six (6) years of age.

PARKING LOT, COMMERCIAL -- A surfaced area of one (1) or more parking spaces designed or used for the parking of vehicles and available to the public, whether for a fee or as an accommodation to clients or customers.

PARKING SPACE -- A surfaced area either within a structure or in the open, exclusive of driveways or access drives, for the parking of one (1) vehicle.

PLANNING AND ZONING COMMISSION -- The Pocomoke City Planning and Zoning Commission.

PUBLIC BUILDING – A building which is held, used or controlled for public purposes by a department of the Federal government or a state government or subdivision thereof.

PUBLIC PURPOSE – For the use and benefit of the general public or to fulfill a government responsibility.

ROLL-OFF TRASH CONTAINER -- means a large metal container designed and used for the temporary storage of refuse, rubbish, trash, garbage, junk, debris, offal, or any material rejected as useless and fit only to be thrown away. Such container is typically rented or leased to owners or occupants of property for their temporary use and which is typically delivered and removed by truck. This term shall not be interpreted to refer to a "trash container" or "dumpster" that is stored in a more permanent manner on the property in compliance with the provisions of this Chapter. This term shall not be interpreted to include recycling facilities.

SECURE COMMUNITY TRANSITION FACILITY (HALFWAY HOUSE) -- A facility for the housing, rehabilitation, and training of persons on probation, parole, or early release from correctional institutions, or other persons found guilty of criminal offenses. A residential facility for persons civilly committed and conditionally released to a less restrictive alternative. A Secure Transition Facility or Halfway House has supervision and security, and either provides or ensures the provision of sex offender treatment services. The residents of a Secure Community Transition Facility shall not include any person who, during the term of residence at such facility, commits a violent act or causes substantial physical damage to the property of others, and any such person must be removed from such facility.

SEMI-PUBLIC BUILDING -- A building of which some part is used for public purposes by the general public as a matter of right and not as an invitee of the owner or tenant of the building, or is used to fulfill a government purpose or responsibility.

SETBACK LINE -- The minimum building line along the front of a lot or along the side of a corner lot adjoining the side street, as determined by the yard requirements of this chapter or of any superior regulation.

SEWAGE DISPOSAL PLANT -- A plant or lagoon for the treatment of sewage which serves the municipality or any group of properties, as distinguished from a private septic tank or package treatment plant which is accessory to and located on the same premises with a principal use.

SHOPPING CENTER -- A group of commercial establishments built on a site that is planned and developed as an operating unit related in location, size and type of shops to the trade area that the unit serves. It provides common on-site parking in definite relationship to the type and total size of the use the parking is intended to serve.

(1) NEIGHBORHOOD -- A shopping center not exceeding thirty thousand (30,000) square feet in gross floor area.

(2) COMMUNITY or REGIONAL -- A shopping center exceeding thirty thousand (30,000) square feet in gross floor area.

SMALL WIND ENERGY SYSTEM -- A single-towered wind energy system that: is used to generate electricity; has a rated nameplate capacity of 50 kilowatts or less; and has a total height of 150 feet or less.

SOLAR ENERGY EQUIPMENT -- Items including panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations used for or intended to be used for collection of solar energy in connection with a building on residential or commercial property. Solar energy equipment and its use is accessory to the principal use of the property.

STORY -- That portion of a building, other than a cellar as defined herein, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it.

(1) STORY, GROUND -- The lowest story or ground story or first story of any building, the floor of which is not more than three and one-half (3 1/2) feet below the average contact ground level at the exterior walls of the building, except that any basement used as a separate dwelling by other than a janitor or caretaker or his or her family shall be deemed a ground or first story.

(2) STORY, HALF -- A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story used as a separate dwelling, other than for a janitor or caretaker and his or her family, shall be deemed a full story.

STREET -- A public right-of-way fifty (50) feet or more in width which provides a means of public access to abutting property or any such public or private right-of-way not less than thirty (30) feet in width which existed prior to the enactment of this chapter. The term "street" shall include "road," "avenue," "drive," "lane," "circle," "square," "court," "highway," "beach," "way" or any similar term.

STREET LINE -- The right-of-way or property line.

STREET, MAJOR -- A street or highway designated as a major street or expressway on the Official Major Street Plan of Pocomoke City.

STRUCTURAL ALTERATION -- Any change in the structural members of a building, such as bearing walls, columns, beams or girders.

STRUCTURE -- Anything constructed, the use of which requires a fixed location on the ground or which is attached to something having such location, but not including fences, sidewalks, driveways, curbs or essential services defined in "essential services" (see above), and towers as defined below.

SWIMMING POOL -- An artificially created pool of water or tank used for swimming or recreational purposes utilizing water, filtering equipment, etc.

TOWER – A monopole, lattice or guy structure that is relatively high for its length and width, either a separate structure or part of another structure, its purpose being to provide a base or supporting structure for some other use or purpose, but excluding public utility poles of the normal type and height. Tower does not include any antenna mounted or affixed to a building or structure not over forty feet (40') in height and not projecting more than ten feet (10') above such structure used for reception or transmission of electromagnetic communications signals for non-commercial purposes.

TOWNHOUSE -- A single-family dwelling forming one (1) of a series of attached single-family dwellings separated from one another by a party wall, without doors, windows or other provisions for human passage or visibility and sound transmission through such party wall, extending from the cellar floor and/or foundation to the highest point on the roof along the dividing lot line and separated from any other building or structure by space on all other sides and which may be offered for sale or rental.

TRAILER -- Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device and so designed that it is or may be mounted on wheels and transported over highways and streets, propelled or drawn by its own or other motive power.

USE FIRST PERMITTED -- A use which in the sequence of successively listed zoning districts occurs as a permitted use for the first time in a specified zoning district.

YARD, FRONT -- An open space extending the full width of the lot between any part of a building not hereinafter excepted and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in Article XIV.

(1) FRONT YARD, LEAST DEPTH -- The shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in § 230-99, and the front lot line.

YARD, REAR -- An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in Article XIV.

(1) REAR YARD, LEAST DEPTH -- The shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in § 230-99, and the rear lot line.

YARD, SIDE -- An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in Article XIV.

(1) SIDE YARD, LEAST WIDTH -- The shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in § 230-99, and the nearest side lot line.

ZONING CERTIFICATE -- Written statement issued by the Zoning Inspector

authorizing the use of buildings, structures or premises consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

ZONING INSPECTOR -- The Zoning Inspector (City Manager) or his or her authorized representative, appointed in accordance with the provisions of Article XV.

ZONING MAP -- The Zoning Map of Pocomoke City, Maryland, dated December 15, 1986, together with all amendments thereto subsequently adopted.[2]

[2]Editor's Note: The Zoning Map is on file in the office of the Zoning Inspector.

ARTICLE III Zoning Districts

§ 230-6. Districts enumerated.[3]

For the purposes of this chapter, the incorporated territory of Pocomoke City is hereby divided into the following districts:

A. Base Zoning Districts:

R-1 Residence District
R-2 Residence District
R-3 Multifamily District
B-1 Shopping District
B-2 General Business District
M-1 Light Industrial District

B. Floating Zones

PRD Planned Residential District Floating Zone

§ 230-7. Zoning Map.

The boundaries of these districts are hereby established as shown on the Zoning Map of Pocomoke City, Maryland, which map, together with all notations, references and other matters thereof, shall be and is hereby made a part of this chapter. Said Zoning Map, properly attested, shall be and remain on file in the office of the Zoning Inspector.

§ 230-8. Location of district boundary lines.

Except where referenced on said map to a street line or other designated line by dimensions shown on said map, the district boundary lines are intended to follow property lines, lot lines or the center lines of streets, alleys, railroads, small streams or other identifiable landmarks as they existed at the time of the adoption of this chapter; but where a district line obviously does not coincide with the property lines, lot lines or such center lines or where it is not designated by dimensions, it shall be deemed to be two hundred (200) feet back from the nearest street line, in case it is drawn parallel with a street line, or its location shall be determined by scaling in other cases.

§ 230-9. Lots in more than one district.

Where a district boundary line as established in this Article or as shown on a Zoning Map divides a lot which was in single ownership and of record at the time of enactment of this chapter, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot under this chapter shall be considered as extending to the entire lot, provided that the more restricted portion of such lot is entirely within fifty (50) feet of said

[3] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

dividing district boundary line. The use so extended shall be deemed to be conforming.

§ 230-10. Interpretation of district boundary lines.

Questions concerning the exact location of district boundary lines shall be determined by the Board of Appeals as provided in § 230-107B and in accordance with rules and regulations which it may adopt.

§ 230-11. Extension of districts when public way is abandoned.

Whenever any street, alley or other public way is abandoned by official action as provided by law, the zoning districts adjoining the sides of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all regulations of the extended district or districts.

§ 230-12. Annexed territory.

In case any territory has not been specifically included within a district, or where territory becomes a part of the incorporated area of Pocomoke City by annexation or otherwise, such territory shall automatically be classified in the R-1 District until otherwise classified.

ARTICLE IV General Regulations

§ 230-13. Conformance required.

Except as hereinafter specified, no land, building, structure or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered, except in conformity with the regulations herein specified for the district in which it is located.

§ 230-14. Continuation of existing uses.

A. Except as provided in § 230-15, any lawful use, building or structure existing at the time of the enactment of this chapter (including a seasonal use) may be continued even though such use, building or structure may not conform to the provisions of this chapter for the district in which it is located.

B. Dry nightclubs or similar establishments which existed on December 17, 2001 that were located in zoning districts other than B-2, or which did not meet the separation requirements described in **§** 230-71(J), are nonconforming uses and subject to all other regulations or this chapter. Nonconforming dry nightclubs must obtain an annual City business license (Chapter 109 of City Code) and are subject to all regulations and conditions of said license. Nonconforming dry nightclubs must also obtain a dry nightclub license (Chapter 121 of City Code) and are subject to all regulations and conditions of that chapter as well.

§ 230-15. Nonconforming uses.

No existing building or premises devoted to a use not permitted by this chapter in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, substituted or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:

A. Substitution.

(1) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same manner or of a more restricted classification.

(2) Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted use.

(3) When authorized by the Board of Appeals according to the provisions of § 230-107E(1) a nonconforming use of land may be changed to another nonconforming use or a nonconforming use of a building may be changed to one of a less restricted classification.

B. Discontinuance.

(1) No building, structure or premises where a nonconforming use has ceased for six (6) months or more shall again be put to a nonconforming use.

(2) All nonconforming uses of land not involving any building or structure having an assessed value for tax purposes of more than five hundred dollars ($500.) at the time of becoming nonconforming, and all nonconforming signs, billboards and outdoor advertising structures of whatever value, may be continued for a period of two (2) years after the date of enactment of this chapter, at the end of which period such nonconforming uses, buildings and structures shall be changed to conforming uses or shall be removed.

C. Extensions.

(1) A building devoted to a nonconforming use may be completed or extended and other buildings may be erected in addition thereto for uses necessary and incidental to the continuation of the existing use, provided that such additions and extensions are located on the same premises or on adjoining premises that were under the same ownership on the date such building became nonconforming, and provided that the floor areas of all such additions and extensions shall not exceed, in the aggregate, thirty-five percent (35%) of the floor area of the existing building devoted to a nonconforming use, provided also that such completions, extensions and additions shall be undertaken within five (5) years of the date when the use of such building became nonconforming. Any other extension of a nonconforming building or use of land shall be subject to Board of Appeals approval as provided in § 230-107 E**.** The extension or completion of a building or the construction of additional buildings as herein provided shall not be deemed

to extend or otherwise affect the date when such nonconforming use or building must be changed or removed, if subject to any of the provisions of Subsection B.

(2) A nonconforming use may be extended throughout those parts of a building which were manifestly designed or arranged for such use prior to the effective date of this chapter, provided that no structural alterations are made except as required by law.

(3) Any dwelling lawfully existing at the time of enactment of this chapter not located on a lot having frontage on a street as required herein may be continued and may be enlarged, without increasing the number of dwelling units therein, provided that no such addition shall extend closer to the street than the setback line for the existing building.

D. Replacing damaged buildings. Any nonconforming building or structure, or group of related buildings comprising one (1) enterprise or establishment and under one (1) ownership, which may become damaged to more than sixty percent (60%) of its then fair market value, exclusive of the foundations, by fire, flood, explosion, war, riot or act of God, shall not be restored or reconstructed and used as before such happenings, but if less than sixty percent (60%) is damaged, it may be restored or reconstructed as before, provided that this shall be done within one (1) year.

§ 230-16. Unsafe buildings.

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by a proper authority.

§ 230-17. Lots.

Except as otherwise provided by this chapter:

A. Every building or group of related buildings shall be located on a lot, as herein defined, having at least the area, width, lot area per family and yards herein prescribed for the district in which such building is located.

B. No lot shall be used for dwelling purposes which does not abut for at least fifty (50) feet on a street as herein defined except at a cul-de-sac which may have a minimum street frontage of thirty-five feet (35'). Lots fronting on a cul-de-sac must meet minimum lot widths as prescribed by the specific zone requirements, at the prescribed front yard set-back for that zone**.**

C. Not more than one (1) dwelling structure shall be located on a lot as herein defined.

D. Lots for agricultural purposes must be at least one (1) acre in area, except for a garden for the personal use of the owners.

§ 230-18. Accessory structures in residence districts.

A. No accessory structure shall be located in any required court or in any yard other than a rear yard, except as provided hereinafter. Accessory structures shall be distant at least six

(6) feet from alley lines and from any other buildings on the same lot and at least five (5) feet from lot lines of adjoining lots which are in any R District.

B. Accessory structures may be erected as a part of the principal structure or, if at least six (6) feet there from, may be connected thereto by a breezeway or similar structure, provided that all yard requirements for a principal building are complied with.

C. In any R District, where a corner lot adjoins in the rear a lot fronting on the side street and located in an R District, no part of any accessory building on such corner lot shall be nearer the side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot, and in no case shall any part of such accessory building be nearer to the common lot line than the least width of a side yard required for the principal building to which it is accessory.

§ 230-19. Reduction of required yard prohibited.

No lot shall be reduced in area so as to make any yard or any other open space less than the minimum required by this chapter, and if already less than the minimum required, said yard or open space shall not be further reduced. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this chapter shall be considered as part of a yard or other open space required under this chapter for another building or structure.

§ 230-20. Off-street parking and loading.

In every district, spaces for off-street parking and for loading or unloading of vehicles shall be provided in accordance with the requirements in Article XIII. Off-street parking and loading areas may occupy all or part of any required yard or open space except as specified in §§ 230-85 and 230-86.

§ 230-21. Transitional uses.

In any R-1 or R-2 District, a transitional use shall be permitted on a lot the side lot line of which adjoins, either directly or across an alley, a B or M District. The permitted transitional uses for any such lot shall be any use permitted in the R-3 District. In such case, the requirements governing lot area per family, off-street parking, yards and other open spaces shall be the same as in an R-3 District. Any transitional use shall not extend more than seventy-five (75) feet from the district boundary line.

§ 230-22. Front yard depth.

Each front yard depth or setback specified herein shall be measured at right angles (or radially) from the nearest street right-of-way line, except that where the right-of-way of any existing street is less than fifty (50) feet wide in the case of a minor street, or less than sixty (60) feet wide in the case of a major street, the front yard or setback shall be measured from a line twenty-five (25) feet or thirty (30) feet, as the case may be, from the center line of such street. The foregoing rules shall apply also to the measurement of a side yard on the street side of a corner lot.

§ 230-23. Courts.

Where a court is provided in any building, other than a single-family dwelling, for the purpose of furnishing light and air to rooms in which persons are to live, sleep or work, except storage rooms, such court shall be an outer court open on one (1) side, the least dimensions of which shall be as follows:

A. Least width. The minimum width requirements shall be as follows:

(1) For residential buildings: the sum of the heights of the building wings opposite one another, but not less than forty (40) feet.

(2) For nonresidential buildings: two thirds (2/3) of the sum of the heights of the building wings opposite one another, but not less than thirty (30) feet.

B. The maximum depth shall be one and one-half (1 1/2) times the width.

§ 230-24. Yard requirements along zoning boundary lines.

Along any zoning boundary line, on a lot adjoining such boundary line in the less restricted district, any abutting front yard, side yard, rear yard or court, unless subject to greater restrictions or requirements stipulated by other provisions of this chapter, shall have a minimum width or depth equal to the average of the required minimum widths or depths for such yards or courts in the two (2) districts on either side of such zoning boundary line. In case the height of a proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more restricted district, the minimum width or depth of the yard or court for such structure shall be determined by increasing the minimum width or depth required for the highest structure permitted in such more restricted district by one (1) foot for each two (2) feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

§ 230-25. Traffic visibility across corner lots.

In any R or B District, on any corner lot, no fence, structure or planting that would interfere with traffic visibility across the corner shall be erected or maintained within thirty (30) feet of the intersection of the street right-of-way lines or otherwise if it may present a hazard in the opinion of the Zoning Inspector.

§ 230-26. Conversion for dwelling purposes.

The conversion of a building into a dwelling, or the conversion of a dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this chapter, and only when the resulting occupancy will comply with the requirements governing new construction in such district.

§ 230-27. Essential services exempted.

Essential services, as defined in §230-5, shall be permitted in any district, as authorized and regulated by law and ordinances, it being the intention hereof to exempt such essential services

from the application of this chapter.

§ 230-28. Distance requirements.

All uses, buildings or premises for which compliance with the distance requirements in this chapter is stipulated elsewhere in this chapter shall be distant at least two hundred (200) feet from any lot in any R District.

§ 230-29. Temporary buildings, portable storage containers, roll-off trash containers.

A. Temporary buildings and structures, including trailers, for uses incidental to construction work on the premises shall be permitted in any district where such construction is being done by a responsible contractor or builder under a contract having a definite completion date and on the condition that such temporary buildings and structures shall be removed upon the completion or discontinuance of construction. However, no person shall sleep or reside in such buildings while so used

B. A property owner or tenant may rent and use a portable storage container provided the following conditions are met:

(1) The Pocomoke City Zoning Administrator shall be notified at least three business days prior to placing the storage container on the site.
(2) A portable storage container shall be located at the address for a maximum of fourteen (14) consecutive days, including the days of delivery and removal. An extension may be granted to the Pocomoke City Zoning Administrator, subject to conditions, for a reasonable additional time period in an amount not to exceed thirty (30) days.
(3) The unit is no larger than eight feet by eight feet by sixteen feet.
(4) The unit is not located within any public right-of-way and does not block any public sidewalk.
(5) There is no more than one portable storage container for any address at any one time
(6) The container shall not be located in the front setback unless approved by the Pocomoke City Zoning Administrator. If access exists at the side or rear of the site, the container shall be located in a side or rear yard.
(7) Portable storage containers shall only be placed on an impervious surface (e.g., driveway). Any required parking space(s) shall at all times be maintained if temporary storage units are placed in parking areas.
(8) The portable storage container shall be used for the temporary storage of household goods and related items only. The portable storage container may not be used for construction materials or waste.
(9) On duplex, townhouse, or multi-family properties, placement of the portable storage container must be approved by an appropriate management or ownership entity to ensure safe and convenient access to required parking spaces, driveways, and pedestrian pathways and to ensure that the storage container does not obstruct emergency access or infringe on required landscaped areas.
(10) Portable storage containers are not permitted accessory structures and shall not be used as such.

C. A roll-off trash containers may be temporarily placed on a property in a Residential

District provided the following conditions are met:

(1) The Pocomoke City Zoning Administrator shall be notified at least three business days prior to placing the roll-off trash container on the site.
(2) A roll-off trash container shall be located at the address for a maximum of thirty (30) consecutive days, including the days of delivery and removal. An extension may be granted by the Pocomoke City Zoning Administrator, subject to conditions, for a reasonable additional time period in an amount not to exceed thirty (30) days. The Pocomoke City Planning and Zoning Commission may grant further extensions not to exceed six (6) months.
(3) The unit has a maximum capacity of thirty (30) cubic yards, or is no larger than eight feet by eight feet by sixteen feet.
(4) There is no more than one roll-off trash container for any address at any one time.
(5) The unit is not located within any public right-of-way and does not block any public sidewalk.
(6) The container shall not be located in the front setback unless approved by the Pocomoke City Zoning Administrator. If access exists at the side or rear of the site, the container shall be located in a side or rear yard.
(6) Roll-off trash containers shall only be placed on an impervious surface (e.g., driveway). Any required parking space(s) shall at all times be maintained if temporary storage units are placed in parking areas.
(7) The roll-off trash container is used only for disposal of acceptable waste. Examples of waste that are not acceptable include refrigerators, a/c units, tires, batteries, car parts, hazardous waste, and gas or propane tanks.
(8) On duplex, townhouse, or multi-family properties, placement of the roll-off trash container must be approved by an appropriate management or ownership entity to ensure safe and convenient access to required parking spaces, driveways, and pedestrian pathways and to ensure that the storage container does not obstruct emergency access or infringe on required landscaped areas.
(9) Roll-off trash containers are not permitted accessory structures and shall not be used as such.

§ 230-30. Floor area for single-family dwelling.

No single-family dwelling hereafter erected shall have less than nine hundred fifty (950) square feet of living area above ground.

§ 230-31. Fuel Storage Tanks.

Notwithstanding any provision of this chapter to the contrary, the following regulations shall apply to the use of fuel storage tanks:

A. As used in this section, the term “fuel storage tank” shall mean any vessel or tank that stores gases or liquids, including fuel products such as gasoline, diesel fuel, heating oil, natural gas, natural gas liquids, propane, synthetic gas, or similar products.

B. Fuel storage tanks, with a capacity greater than one thousand (1000) gallons, either individually or in the aggregate, shall be permitted within the B-2, “General Business,” M-1 “Light Industrial” Districts as a Conditional use only, and provided such tanks

comply with requirements of the National Fire Protection Association and/or Public Service Commission and, provided that any such tanks be located not less than 200' (two hundred feet), from any lot in any R District.

C. Fuel storage tanks, with an aggregate capacity of one thousand (1000) gallons or less, intended for building heating use only, and located on the same lot as the principal use, may be permitted as an accessory use, provided such tanks comply with the requirements of the National Fire Protection Association and/or the Public Service Commission.

D. Fuel storage tanks with a capacity greater than one Thousand (1000) gallons, either individually or in the aggregate, are prohibited in all residential districts and in the B-1 Zone.

ARTICLE V R-1 Residence District

§ 230-32. Applicability.

The uses contained in this Article shall be permitted and the following regulations and the applicable regulations contained in other Articles shall apply in the R-1 District.

§ 230-33. Principal permitted uses.

Principal permitted uses in the R-1 District shall be as follows:

A. Single-family dwellings.

B. Churches and parish houses.

C. Schools and colleges for academic instruction.

D. Public parks, playgrounds, community centers, golf courses and buildings or properties of a cultural or conservation nature.

§ 230-34. Conditional uses.

Conditional uses requiring Board authorization shall be as follows:

A. Public and semi-public buildings.

B. Hospitals, sanitariums and religious or charitable institutions (not for contagious disease, mental, liquor or drug patients and not penal or correctional institutions), provided that any such establishment shall comply with the distance requirements of § 230-28.

C. Cemeteries, provided that no graves or burial lots are located in front yard or required side yard setbacks.

D. Public utilities, cables, utility poles, pipelines, railroad lines or any other utility located on a private right-of-way as defined in § 230-5, but not including production, construction or maintenance or storage buildings or yards.

E. Boat landings (docks or wharves).

F. Bed-and-Breakfast type business for overnight lodgings and breakfast, provided that appropriate parking and other requirements of Chapter 230 are met. The number of rentable rooms to be determined by the Board following a public hearing.

G. The Board of Appeals may permit Solar Energy Equipment as an accessory use subject to the following:

(1) Solar Energy Equipment may be on roofs of principal buildings or ground mounted.

(2) Placement of Solar Energy Equipment is not permitted within the required front yard setback unless the Board of Appeals determines that it is adequately screened from view from the public way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public way. It is understood that this equipment may on occasion, be visible from the public way even if located in the side or the rear yard.

(3) If the solar energy equipment is unable to be located on the roof of the principal structure as is preferred, placement of ground mounted solar energy equipment in the required side or rear yard may be permitted only if the equipment is not located in the required setback for a structure in the subject zone from the property line or a distance equal to the height of the accessory structure whichever is greater.

(4) The solar energy equipment must be adequately screened from view of residential neighbors by appropriate vegetative screening or appropriate and adequate solid fencing.

(5) Any proposed fencing must comply with all applicable height requirements. Natural colored fencing is preferred.

(6) Roof mounted Solar Energy Equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations.

(7) The Board of Appeals, prior to issuing a permit for the placement of any solar energy equipment, shall be provided with any requested information in regard to proving compliance with this section. This information may include a sun and shadow diagrams specific to the subject proposed installation which would enable the Board of Appeals to determine if solar access will be impaired due to the proposed location or to the location of objects which may obstruct the solar access.

(8) The Board of Appeals may also require submission of detailed information, including maps, plans or dimensioned sketches, showing the proposed location, including setbacks from property lines or distances from structures which are used for habitation on neighboring properties.

(9) The Zoning Administrator may also require the submission of an as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Board of Appeals may order its removal and/or relocation as appropriate.

§ 230-35. Accessory uses.

Accessory buildings and uses are those building and uses customarily incidental to any principal use or authorized conditional use, including:

A. Private garages, parking areas, swimming pools, satellite television earth stations and other customary outbuildings and structures.

B. Temporary real estate signs complying with § 230-89.

C. Identification signs displaying only the name and nature of the premises or the occupant thereof or directing the way thereto, not exceeding eight (8) square feet in area.

D. One (1) bulletin board or sign for any permitted church, school or other public or semi-public building, not exceeding twenty-four (24) square feet in size, which sign may be indirectly lighted.

E. The keeping of not more than one (1) roomer or boarder by a resident family.

§ 230-36. Height regulations.

No principal structure shall exceed two and one-half (2 1/2) stories (thirty (30) feet in height), and no accessory structure shall exceed one and one-half (1 1/2) stories (twenty-five (25) feet in height). All public and semi-public utility buildings and structures must meet the requirements of § 230-93. Replacement buildings shall be the same as the building was before or approximately the same height and size as the existing adjoining buildings.

§ 230-37. Area, yard and bulk regulations.

Lot area, width and yard requirements shall be as follows:

A. Lot area and width requirements.

Type of Use	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Lot Area Per Family (square feet)
Dwellings	10,000	75	10,000
Churches	2 acres	200	
Schools and colleges	5 acres	400	
Public utility uses	10,000	75	
Other permitted uses	20,000	100	

B. Yard requirements.

Replacement buildings shall have the same front yard setbacks as the existing adjoining buildings.

Type of Use	Front Yard Depth (feet)	Side Yard Least Width (feet)	Side Yard Sum of Widths (feet)	Rear Yard Depth (feet)
Dwellings	35	12	25	40
Churches	35	25	50	40
Schools and colleges	35	25	50	40
Public utility uses	35	20	40	40
Other permitted uses	35	25	50	40

§ 230-38. Parking regulations and facilities; recreational vehicles.

A. Two (2) off-street parking spaces are required for each family or dwelling unit.

B. Parking of a trailer or motor home is prohibited, except that no more than one (1) licensed recreational vehicle may be parked/stored on the premises. When so parked/stored, such vehicle must be in an accessory building or in the rear yard only.

ARTICLE VI R-2 Residence District

§ 230-39. Applicability.

The uses contained in this Article shall be permitted and the following regulations and the applicable regulations contained in other Articles shall apply in the R-2 Residence District.

§ 230-40. Principal permitted uses.

Principal permitted uses in the R-2 District shall be as follows:

A. Single-family dwellings.

B. Churches and parish houses.

C. Schools and colleges for academic instruction.

D. Public parks, playgrounds, community centers, golf courses and buildings or properties of a cultural or conservation nature.

§ 230-41. Conditional uses.

Conditional uses requiring Board authorization shall be as follows:

A. Public and semi-public buildings.

B. Hospitals, sanatoriums and religious or charitable institutions (not for contagious disease,

liquor or drug patients and not for penal or correctional institutions), provided that any such establishment shall comply with the distance requirements of § 230-28.

C. Cemeteries, provided that no graves or burial lots are located in the front yard or required side yard setbacks.

D. Public utilities, cables, utility poles, pipelines, railroad lines or any other utility located on a private right-of-way as defined in § 230-5, but not including production, construction or maintenance of storage buildings or yards.

E. Boat landings (docks or wharves).

F. Licensed family day-care provider homes, nursery schools or day-care centers, provided that there is established and maintained in connection therewith a completely fenced play lot of adequate size in the rear setback area only. Such fence must be at least four (4) feet but no greater than six (6) feet in height and constructed in a manner such that it will not permit children or small animals to pass through it, provided also that any family day-care provider home or nursery school building must be located not less than ten (10) feet from any other lot in any residential (R) district, and any licensed day-care center must be located not less than twenty (20) feet from any other lot in any residential (R) district. All such facilities must be properly licensed by the State of Maryland and must obtain a city business license annually[4].

G. Recreational clubs and facilities for private noncommercial use.

H. Professional offices of the occupant only.

I. Customary incidental home occupations, provided that nothing is sold or stocked except what is produced on the premises, that no person from outside the home shall be engaged in such occupation and that no building alteration is made or mechanical equipment is used which is not customary in dwellings. An indirectly lighted sign not over one (1) square foot in area shall be permitted in connection with such home.

J. A bed-and-Breakfast type business for overnight lodgings and breakfast, provided that appropriate parking and other requirements of Chapter 230 are met. The number of rentable rooms to be determined by the Board following a public hearing.

K. Subdivisions featuring two-dwelling (duplex units), provided that the following conditions are met.

(1) The original parcel must contain a minimum of twenty (20) acres prior to subdivision;

[4]Editor's Note: Section Four of this ordinance provides as follows: "The provisions of § 230-41F and 230-48F as amended by this ordinance shall not apply to family day-care provider homes, day-care centers or nursery schools which are duly licensed by the State of Maryland or have formally applied for such licensing on or before March 1, 1992, which meet the fencing requirements set forth in Section Two of this ordinance and which have obtained a city license. However, any such property which shall subsequently cease to be used as a family day-care home, day-care center or nursery school for a period of ninety (90) days or shall lose its state licensing shall no longer be exempt from the provisions of Chapter 230 as amended hereby."

(2) A two-family dwelling may straddle a side yard lot line between two lots, with zero setbacks in adjoining side yards; in that case, each lot must contain at least six thousand five hundred (6,500) square feet in area (i.e. 6,500 square feet of lost area per dwelling unit; minimum width to be sixty feet (60').

(3) If a two-family dwelling is placed on a single lost, that lot must contain a minimum of thirteen thousand (13,000) square feet, with a minimum of one hundred twenty feet (120').

(4) Minimum setbacks must be as follows:

front 30 feet
rear 30 feet
open side yard 10 feet

(5) All other appropriate zoning and/or subdivision laws or regulations will also apply.

L. The Board of Appeals may permit Solar Energy Equipment as an accessory use subject to the following:

(1) Solar Energy Equipment may be on roofs of principal buildings or ground mounted.

(2) Placement of Solar Energy Equipment is not permitted within the required front yard setback unless the Board of Appeals determines that it is adequately screened from view from the public way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public way. It is understood that this equipment may on occasion, be visible from the public way even if located in the side or the rear yard.

(3) If the solar energy equipment is unable to be located on the roof of the principal structure as is preferred, placement of ground mounted solar energy equipment in the required side or rear yard may be permitted only if the equipment is not located in the required setback for a structure in the subject zone from the property line or a distance equal to the height of the accessory structure whichever is greater.

(4) The solar energy equipment must be adequately screened from view of residential neighbors by appropriate vegetative screening or appropriate and adequate solid fencing.

(5) Any proposed fencing must comply with all applicable height requirements. Natural colored fencing is preferred.

(6) Roof mounted Solar Energy Equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations.

(7) The Board of Appeals, prior to issuing a permit for the placement of any solar

energy equipment, shall be provided with any requested information in regard to proving compliance with this section. This information may include a sun and shadow diagrams specific to the subject proposed installation which would enable the Board of Appeals to determine if solar access will be impaired due to the proposed location or to the location of objects which may obstruct the solar access.

(8) The Board of Appeals may also require submission of detailed information, including maps, plans or dimensioned sketches, showing the proposed location, including setbacks from property lines or distances from structures which are used for habitation on neighboring properties.

(9) The Zoning Administrator may also require the submission of an as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Board of Appeals may order its removal and/or relocation as appropriate.

§ 230-42. Accessory uses.

Accessory buildings and uses are those buildings and uses customarily incidental to any principal use or authorized conditional use, including:

A. Private garages, parking areas, swimming pools, satellite television earth stations and other customary outbuildings and structures.

B. Temporary real estate signs complying with § 230-89.

C. Identification signs displaying only the name and nature of the premises or the occupant thereof or directing the way thereto, not exceeding eight (8) square feet in area.

D. One (1) bulletin board or sign permitted for a church, school or other public or semi-public building, not to exceed twenty-four (24) square feet in size, which may be indirectly lighted.

E. The keeping of not more than one (1) roomer or boarder by a resident family.

§ 230-43. Height regulations.

No principal structure shall exceed two and one-half (2 1/2) stories (thirty (30) feet in height), and no accessory structure shall exceed one and one-half (1 1/2) stories (twenty-five (25) feet in height). All public and semi-public utility buildings and structures must meet the requirements of § 230-93. Replacement buildings shall be the same as the building was before or approximately the same height and size as the existing adjoining buildings.

§ 230-44. Area, yard and bulk regulations.

Lot area, width and yard requirements shall be as follows:

A. Lot area and width requirements.

Type of Use	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Lot Area Per Family (square feet)
Dwellings	8,000	60	8,000
Churches	2 acres	200	
Schools and colleges	5 acres	400	
Public utility uses	10,000	75	
Other permitted uses	8,000	60	

B. Yard requirements.

Replacement buildings shall have the same front yard setbacks as the existing adjoining buildings.

Type of Use	Front Yard Depth (feet)	Side Yard Least Width (feet)	Side Yard Sum of Widths (feet)	Rear Yard Depth (feet)
Dwellings	30	10	20	40
Churches	35	25	50	40
Schools and colleges	35	25	50	40
Public utility uses	35	25	40	40
Other permitted uses	35	25	50	40

§ 230-45. Parking regulations and facilities; recreational vehicles.

A. Two (2) off-street parking spaces are required for each family or dwelling unit.

B. Parking of a trailer or motor home is prohibited, except that no more than one (1) licensed recreational vehicle may be parked or stored on the premises. When so parked or stored, such vehicle must be in an accessory building or in the rear yard only.

ARTICLE VII R-3 Multifamily District

§ 230-46. Applicability.

The uses contained in this Article shall be permitted and the following regulations and the applicable regulations contained in other Articles shall apply in the R-3 Multifamily District.

§ 230-47. Principal permitted uses.

Principal permitted uses in the R-3 District shall be as follows:

A. Single-family dwellings.

B. Churches and parish houses.

C. Schools and colleges for academic instruction.

D. Public parks, playgrounds, community centers, golf courses and buildings or properties of a cultural or conservation nature.

E. Two-family dwellings (duplex) existing, new construction or construction for which a building permit has been issued as of the effective date of this subsection.

F. Multifamily dwellings existing or for which a building permit has been issued as of the effective date of this subsection and subject to the provisions of § 230-53.

G. Townhouse developments existing or for which a building permit has been issued as of the effective date of this subsection and subject to the provisions of § 230-54.

§ 230-48. Conditional uses.

Conditional uses requiring Board authorization shall be as follows:

A. Public and semi-public buildings.

B. Hospitals, sanatoriums and religious or charitable institutions (not for contagious disease, mental, liquor or drug patients and not for penal or correctional institutions), provided that any such establishment must comply with the distance requirements of § 230-28.

C. Cemeteries, provided that no graves or burial lots are located in the required front yard or required side yard setbacks.

D. Public utilities, cables, utility poles, pipelines, railroad lines or any other utility located on a private right-of-way.

E. Boat landings (docks or wharves).

F. Licensed family day-care provider homes, nursery schools or day-care centers, provided that there is established and maintained in connection therewith a completely fenced play lot of adequate size in the rear setback area only. Such fence must be at least four (4) feet but no greater than six (6) feet in height and constructed in a manner such that it will not permit children or small animals to pass through it, provided also that any family day-care provider home or nursery school building must be located not less than six (6) feet from any other lot in any residential (R) district, and any licensed day-care center must be located not less than twenty (20) feet from any other lot in any residential (R) district. All such facilities must be properly licensed by the State of Maryland and must obtain a city business license annually[5].

[5]Editor's Note: Section Four of this ordinance provides as follows: "The provisions of §§ 230-40F and 230-47F as amended by this ordinance shall not apply to family day-care provider homes, day-care centers or nursery schools which are duly licensed by the State of Maryland or have formally applied for such licensing on or before March 1, 1992, which meet the fencing requirements set forth in Section 2 of this ordinance and which have obtained a city license. However, any such property which shall subsequently cease to be used as a family day-care home, day-care center or nursery school for a period of ninety (90) days or shall lose its state licensing shall no longer be exempt from the provisions of Chapter 230 as amended hereby."

G. Recreational clubs and facilities for private noncommercial use, private clubs, lodges and meeting places.

H. Professional offices of the occupant only.

I. Customary incidental home occupations, provided that nothing is sold or stocked except what is produced on the premises, that no person from outside the home shall be engaged in such occupation and that no building alteration is made or mechanical equipment is used which is not customary in dwellings. An indirectly lighted sign not over one (1) square foot in area shall be permitted in connection with such home occupation.

J. Rest homes, nursing homes, or assisted living facilities or adult care centers, for transients or permanent residents.

K. Professional offices for attorneys, medical doctors, psychologists, dentists and accountants, provided that any new building shall be designed and constructed in such a manner as to resemble a residential dwelling compatible with existing residential dwellings in the immediate neighborhood and no alteration to existing buildings is made or mechanical equipment is used which is not customary in residential dwellings. An indirectly lighted sign not over one (1) square foot in area shall be permitted in connection with such profession.

L. Increasing the number of dwelling units in any existing multifamily dwelling that was expressly designed as a multi-family residential building.

M. The keeping of more than one (1) roomer or boarder by a resident family.

N. Community Residential Facility (Group Home)]

O. A bed-and-breakfast type business for overnight lodgings and breakfast, provided that appropriate parking and other requirements of Chapter 230 are met. The number of rentable rooms to be determined by the Board following a public hearing.

P. The Board of Appeals may permit Solar Energy Equipment as an accessory use subject to the following:

(1) Solar Energy Equipment may be on roofs of principal buildings or ground mounted.

(2) Placement of Solar Energy Equipment is not permitted within the required front yard setback unless the Board of Appeals determines that it is adequately screened from view from the public way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public way. It is understood that this equipment may on occasion, be visible from the public way even if located in the side or the rear yard.

(3) If the solar energy equipment is unable to be located on the roof of the principal structure as is preferred, placement of ground mounted solar energy equipment in the required side or rear yard may be permitted only if the equipment is not located in the required setback for a structure in the subject zone from the

property line or a distance equal to the height of the accessory structure whichever is greater.

(4) The solar energy equipment must be adequately screened from view of residential neighbors by appropriate vegetative screening or appropriate and adequate solid fencing.

(5) Any proposed fencing must comply with all applicable height requirements. Natural colored fencing is preferred.

(6) Roof mounted Solar Energy Equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations.

(7) The Board of Appeals, prior to issuing a permit for the placement of any solar energy equipment, shall be provided with any requested information in regard to proving compliance with this section. This information may include a sun and shadow diagrams specific to the subject proposed installation which would enable the Board of Appeals to determine if solar access will be impaired due to the proposed location or to the location of objects which may obstruct the solar access.

(8) The Board of Appeals may also require submission of detailed information, including maps, plans or dimensioned sketches, showing the proposed location, including setbacks from property lines or distances from structures which are used for habitation on neighboring properties.

(9) The Zoning Administrator may also require the submission of an as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Board of Appeals may order its removal and/or relocation as appropriate.

§ 230-49. Accessory uses.

Accessory uses in the R-3 District shall be as follows:

A. Private garages, parking areas, swimming pools, satellite television earth stations and other customary outbuildings and structures.

B. Temporary real estate signs complying with § 230-89.

C. Identification signs displaying only the name and nature of the premises or the occupant thereof or directing the way thereto, not exceeding eight (8) square feet in area.

D. One (1) bulletin board or sign permitted for a church, school or other public or semi-public building, not to exceed twenty-four (24) square feet in size, which may be indirectly lighted.

E. The keeping of not more than two (2) roomers or boarders by a resident family.

F. A multi-family development of more than forty (40) units or a subdivision of more than forty (40) lots may have one sign not to exceed twenty-four square feet in area, which may be indirectly lighted and may be attached or mounted on a pedestal or base that is proportional to the sign and to the site maximum overall sign height including base or pedestal may not exceed five (5) feet. Any such sign must be set back at least-ten feet (10) from the property line to allow for adequate traffic visibility.

§ 230-50. Height regulations.

No principal structure shall exceed (3) stories (forty (40) feet in height), and no accessory structure shall exceed one and one-half (1 1/2) stories (twenty-five (25) feet) in height. All public and semi-public utility buildings and structures must meet the requirements of § 230-93.

§ 230-51. Area, yard and bulk regulations.

Lot area, width and yard requirements shall be as follows:

A. Lot area and width requirements.

Type of Use	**Minimum Lot Area (square feet)**	**Minimum Lot Width (feet)**	**Lot Area Per Family (square feet)**
Single-family dwellings	6,000	50	6,000
Duplexes	6,000	50	3,000 per unit
Multifamily	(14 units per acre)		
Churches	2 acres	200	
Schools and colleges	5 acres	200	
Public utility uses	6,000	100	
Other permitted uses	6,000	50	

B. Yard requirements.

Type of Use	**Front Yard Depth (feet)**	**Side Yard Least Width (feet)**	**Side Yard Sum of Widths (feet)**	**Rear Yard Depth (feet)**
Single-family dwellings	25	6	16	35
Duplexes	30	10	20	35
Multifamily	35	35	70	35
Churches	35	25	50	40
Other permitted uses	35	25	50	40
Schools and colleges	35	20	40	40
Public utility uses	35	25	40	40
Other permitted uses	35	25	50	40

§ 230-52. Parking regulations and facilities; recreational vehicles.

A. One and one-half (1 1/2) parking spaces are required for each dwelling unit. There shall be submitted a drawing showing the capacity and location and setbacks for parking areas.

B. Parking of trailers or motor homes is prohibited, except that one (1) recreational vehicle may be parked/stored on the premises. When so parked/stored such vehicle must be in an accessory building or in the rear yard only.

§ 230-53. Multifamily developments.

The purpose of this section is to include all types of multifamily construction regardless of ownership, design or different identifications. Standards shall include, but not be limited to, apartments, garden apartments, townhouses, condominiums or the conversion of an existing structure for multifamily dwelling units.

A. Building coverage and standards.

(1) All buildings in a multifamily project shall be of compatible architectural design.

(2) The total amount of land area permitted to be covered by structures is twenty-five percent (25%).

(3) The facades of units can be varied by material or design and setbacks with the approval of the Planning and Zoning Commission.

(4) Public water and sewage systems must be available to serve the project.

B. Open space. All multifamily projects shall provide on-site open space areas at least equal to twenty-five percent (25%) of the total land area. Parking spaces and roadways shall not be included when computing open space areas.

C. Minimum space between buildings. When more than one (1) multifamily building is built, no building shall be closer than thirty (30) feet from any other principal building. No accessory building shall be located less than six (6) feet from any principal or accessory building.

D. Length of building. In a multifamily development, the length of one (1) building shall not exceed two hundred (200) feet.

E. Landscaping plan. A landscaping plan shall be submitted and approved by the Planning and Zoning Commission.

F. Comprehensive site/development plan.

(1) Multifamily dwellings shall be constructed according to an approved comprehensive site plan. No building permit shall be issued for any work in connection with the use or structure until the Planning and Zoning Commission shall have reviewed and approved a site plan for said use or structure.

(2) The Planning and Zoning Commission shall review the site plan for compliance with Pocomoke City's Comprehensive Master Plan, this chapter and other applicable regulations. The Planning and Zoning Commission may require changes in the site plan or attach conditions or restrictions to coordinate the proposed development with surrounding properties or improve the protection of the public's health, safety and general welfare.

(3) Planning and Zoning Commission approval shall authorize construction only in accordance with the approved site plan. Deviation from the approved site plan or failure to abide by attached restrictions and conditions shall be considered a violation of this chapter.

(4) Site plan standards. The following drafting standards and information shall be required on the site plan as appropriate:

(a) Drafting standards. The site plan and all supporting drawings shall be prepared on one (1) or more reproducible sheets eighteen by fourteen (18 x 14) inches in size. The plan may be prepared in any conventional scale, provided that all information is clear and legible. The plan shall contain sufficient detail, labeling and dimensions to be easily understood. All lot dimensions shall be based on actual measurements or deed description.

(b) General data. The plans shall identify the name and address of the property owner and/or applicant, the general location of the property by use of an insert vicinity map, North arrow, scale, date and zoning classification. The plan shall also bear the signatures of the applicant, the property owner or his or her attorney and the person who prepared the site plan.

(c) Layout. The plan shall show all property lines, structures, building entrances, use areas, road access points, vehicular circulation, signs, yard setbacks, drainageways, utility lines, easements, landscaping, exterior lighting, fences, walls and other physical features. Both existing and proposed features shall be shown and labeled as such.

(d) Elevations. The plan shall show typical schematic elevations of the major buildings or structures and of any freestanding signs. The elevations shall indicate the type of construction and basic exterior materials and color treatment.

(e) Relationship to abutting roads and properties. The plan shall show the location of abutting roads, structures, use areas, parking lots, fences, walls, signs and other significant physical features within one hundred (100) feet of the property line.

(f) General description. Accompanying the site plan shall be a written description of the project and its intended use or operation. Such description shall be typed on sheets eight and one-half by eleven (8 1/2 x 11) inches in size.

G. Other data.

(1) The Planning and Zoning Commission may require such data, drawings or documentation as it deems necessary to adequately review the application for compliance with the intent and provisions of this chapter.

(2) Waiver. The Planning and Zoning Commission may, at its discretion, waive or modify the requirements that the site plan show all property lines when such lines are not necessary to conduct an adequate review of the application.

§ 230-54. Townhouses.

A. This section establishes certain standards and provisions for the appropriate location and development of sites for townhouses that will more fully and efficiently utilize available public utilities and services. This section is intended to provide the maximum amount of freedom in the design of townhouses and their grouping and layout with permitted residential districts.

B. The following regulations shall apply to any townhouse development approved by the Pocomoke City Planning and Zoning Commission:

(1) Area requirements.

(a) Net lot area. Every townhouse dwelling shall have a minimum lot area of one thousand six hundred (1,600) square feet. A townhouse development shall have an average of not less than three thousand (3,000) square feet of land area per dwelling, but no townhouse development shall be located on a contiguous tract of land containing less than twenty thousand (20,000) square feet.

(b) Building coverage. No more than thirty-five percent (35%) of the lot area shall be occupied by townhouses.

(c) Open space. Not less than fifty percent (50%) of the lot area shall be devoted to open space; provided, however, that interior patio courts of not less than one hundred twenty-five (125) square feet in area nor of a minimum dimension of less than ten (10) feet may be computed as open space.

(2) Yard requirements.

(a) Front yard. Each lot shall have a front yard not less than the front yard required for the district in which it is situated.

(b) Side yard.

[1] A side yard at least ten (10) feet in width shall be provided at each end of every row of townhouses, provided that if the end of a townhouse is located adjacent to any road or street, public or

private, the side yard shall be at least twenty (20) feet in width. There shall be at least thirty (30) feet between townhouse buildings.

[2] Each corner lot shall have a side yard requirement of a width equal to not less than one-half (1/2) of the required depth of the front yard on the lot in the rear.

(c) Rear yard. Each lot shall have a rear yard of at least twenty-five (25) feet in depth. Accessory buildings shall be located only in a rear yard and shall occupy not over twenty-five percent (25%) thereof and shall be located not less than three (3) feet from a rear or side lot line, except that in the case of a corner lot, an accessory building shall be located in accordance with the setback requirements for a corner lot in the district in which it is located.

(3) Minimum lot frontage at front building line. Each interior lot used for townhouses shall be not less than sixteen (16) feet wide, and there shall be not more than ten (10) townhouses in any one (1) building.

(4) Building height limit. The height limit for a townhouse shall be two and one-half (2 1/2) stories measured on any external wall and not over thirty-five (35) feet, except that the height limit may be extended to three (3) stories, but not over forty (40) feet, if the front and side yards are increased in depth one-half (1/2) foot for each additional foot of height.

(5) Roads. Each site used for townhouse development must have at least one hundred (100) feet on a public road. Interior access drives which are not dedicated for public use shall be improved to the standards set forth in Chapter 205, Subdivision of Land, unless they are under five hundred (500) feet in length, in which case they shall be at least twenty-four (24) feet wide. Points of access to public roads shall be approved by the Planning and Zoning Commission, County Roads Board or State Highway Administration, as applicable.

(6) Off-street parking requirements. Off-street parking areas shall be one and one-half (1 1/2) spaces per townhouse. There shall be submitted a drawing showing the capacity, location, setbacks and lighting for parking areas.

(7) Floor area. Every townhouse dwelling unit shall have a gross exterior floor area of at least the following minimum number of square feet:

Number of Bedrooms (per unit)	**Minimum Floor Area (square feet)**
1	625
2	750
3	875
4	1,025

C. Comprehensive site/development plan.

(1) A townhouse site/development plan shall be submitted to the City Manager and Pocomoke City Planning and Zoning Commission with two (2) copies at least twenty-one (21) days prior to a regularly scheduled meeting of the Commission. The site/development plans shall show the following:

(a) Location and site of all buildings and structures.

(b) Area devoted to parking facilities, access roads, walkways, drives, parking areas and exterior lighting.

(c) The topography and vegetation features now existing on the land. The proposed grading, landscaping, drainageways, utility lines, easements and other physical features.

(d) Area to be devoted to open space, area for refuse disposal and area for tot lots to be included.

(e) Drawings to show floor plans of each townhouse, front and rear elevations and side elevations where applicable.

(f) Evidence of proposed covenants, restrictions and details of maintenance responsibility of common areas and open space to show that liability for maintenance of such areas shall attach to property owners within the development and that the same may be enforced by liens against the property owners in favor of the city or its assignee.

(2) Evidence of compliance with all other requirements (flood zone, critical areas, stormwater, erosion, etc.) must also be submitted.

(3) Review and recommendations.

(a) The Planning and Zoning Commission shall review the application and comprehensive site/development plan and consider the standards and purposes of these with a view to achieving a maximum of safety, convenience and amenity for surrounding area residents.

(b) The Planning and Zoning Commission shall submit, in writing, its findings and recommendations, and no building permit shall be issued until all requirements of this chapter and other applicable regulations are met.

(4) Limit on approval of building permit. The building permit shall be valid for only one (1) year, at which time it shall have lapsed and shall be of no further force or effect.

D. The Planning and Zoning Commission shall require that an occupancy permit be issued after completion of construction and compliance with all sections of the townhouse development plan has been approved by the City Manager.

ARTICLE VIII Planned Redevelopment District (PRD) Floating Zone

§ 230-55. Purpose and Intent

The Planned Redevelopment District (PRD) is a floating zone. That means that while regulations are adopted to govern any development within a PRD, no such district is pre-mapped on the City's Official Zoning Map. The PRD is intended to permit master planned developments that the City Council determines are consistent with the *Pocomoke City Comprehensive Plan,* meet the requirements for PRDs in the Pocomoke City Zoning Ordinance and that are consistent with the following purposes:

A. Accommodate growth in older sections of Pocomoke City by encouraging and facilitating new development on vacant, bypassed and underutilized land.

B. Encourage efficient use of land and public services.

C. Stimulate development investment in areas suffering from economic and/or structural decline.

D. Encourage investment in infill and redevelopment projects by providing flexible development standards that permit innovative design solutions.

E. Create high-quality neighborhoods.

F. Implement the goals, objectives, and policies of the *Pocomoke City Comprehensive Plan.*

G. Encourage compact mixed-use development that is pedestrian-scaled.

The PRD does not give any entitlements to develop, but permits development and land use pursuant to an approved Master Development Plan that meets the requirements of the Pocomoke City Zoning Ordinance and that is approved by the City Council at the time the PRD is applied to specific parcels of land. It is further the intent of the PRD to permit flexible development standards for projects. Subject to the specific standards applicable to PRDs, flexible development standards to increase density, reduce lot areas, widths and yards, increase minimum building dimension and allow limited non-residential uses may be permitted at the discretion of the Mayor and Council subject to proof of good cause and benefit to the development and the community, and upon recommendation by the Planning Commission. Building height and coverage may vary so long as the project average is consistent with the neighborhood scale, fits with best examples of local architecture patterns, and does not constitute a disruptive condition to the identity of the area.

§ 230-56. Applicability

The PRD classification may only be applied to areas designated as a Planned Redevelopment District on the Pocomoke City Official Zoning Map.

§ 230-57. Principal permitted uses

Principal permitted uses in the PRD shall be the principal permitted uses in the R-3 Multifamily District. The Planning Commission may recommend and the City Council may approve small retail, business or office uses within the PRD provided such uses are:

A. Clearly incidental and secondary to the primary residential use of the property;

B. Primarily serve local residents;

C. Located on the ground floor of the building(s) in which the use or uses are proposed; and

D. Appropriately integrated into the overall design of the PRD.

§ 230-58. Conditional Uses

A. Conditional uses requiring Board of Appeals authorization shall be those conditional uses permitted in the R-3 Multifamily District.

B. Conditional uses, when included in an approved Master Development Plan, shall be treated as a permitted uses in the PRD.

§ 230-59. Development Standards

Except as may be provided below PRD projects shall conform to the regulations and development standards applicable to the R-3 Multi-family Residential Zoning District.

A. Height regulations.

(1) Maximum building height shall be in accordance with a Master Development Plan approved as part of a PRD development, however no principal structure shall exceed forty (40) feet in height and no accessory structure shall exceed one and one half (1½) stories or twenty-five (25) feet in height.

(2) The Planning Commission may permit architectural features to extend above the forty-foot (40) height limit provided that such features create no additional living space. Examples of such features include the following:

(a) Fire or parapet walls, cupolas, steeples, flagpoles, smokestacks, masts, water tanks or other roof superstructures.

(b) Monitors, scenery lofts, penthouses or roof structures for housing elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building.

B. Area, Yard and Bulk Regulations

Minimum lot area, width and yard requirements shall be in accordance with the approved Master Development Plan for the PRD.

C. Density

The maximum allowable density (dwelling units per acre) shall be established based on a Master Development Plan recommended for approval by the Planning Commission and approved by the Mayor and Council as part of a PRD development. Residential density exceeding that permitted in the R-3 Multifamily District may be approved by the Mayor

and Council subject to proof of good cause and benefit to the development and the community and upon recommendation by the Planning Commission. Densities in excess of the maximum permitted are not an entitlement in a PRD district. If the Planning Commission recommends, and the Mayor and Council find that the quality and characteristics of the proposed PRD project warrant, a density of up to twenty-five (25) units per gross acre may be permitted.

D. Open space

PRD projects shall provide on-site open space areas at least equal to twenty-five (25) percent of the total land area. For the purposes of this subsection, open space is defined as land intended for active or passive recreation and free of residential or service structures and uses. Parking spaces, driveways and roadway shall not be included when computing open space areas. Upon recommendation of the Planning Commission the City Council may accept an in-lieu fee for all or part of the required open space.

E. Length of building

Generally, any horizontal dimension of a building should not exceed 200 feet. The Planning Commission may recommend and the Mayor and Council may approve larger buildings if it is determined that such buildings are generally consistent with City architectural patterns and will not adversely impact adjacent property values or the existing neighborhood character.

F. Parking

Off-street parking standards applicable in the R-3 Multifamily District shall apply except that the Planning Commission may require additional off-street parking if it is determined that parking demand related to the proposed uses may exceed off-street parking capacity and overflow parking may adversely impact adjacent streets.

G. Accessory Uses

Accessory uses in the PRD shall be those accessory uses permitted in the R-3 Multifamily District.

§ 230-60. Procedure for Approval of a PRD District Floating Zone Amendment and Master Development Plan Approval

A. Purpose. The purpose and intent of the PRD floating zone amendment process is to permit specific and detailed mapping of areas and to provide for the creation of a Master Planned Development.

B. Preliminary Application. Preliminary application for a floating zone amendment for a PRD and Master Development Plan approval shall be made to the City Council. Preliminary applications shall include:

(1) A written petition for location of a PRD District and approval of a Master Development Plan, signed by the owners, and contract purchasers, if any, of the property that is the subject of the petition.

(2) A narrative describing the following:

(a) Statement of present and proposed ownership of all land within the development;

(b) Overall objectives of the proposed Master Development Plan and a statement of how the proposed development concept corresponds to and complies with the purpose and intent the PRD and the *Pocomoke City Comprehensive Plan*;

(c) Method of providing sewer and water service and other utilities, such as, but not limited to, telephone, gas, and electric services;

(d) Storm drainage areas and description of stormwater management concepts to be applied;

(e) Method of and responsibility for maintenance of open areas, private streets, recreational amenities, and parking areas;

(f) If a petitioner desires to develop the property in phases, a preliminary phasing plan indicating:

(i) The phase(s) in which the project will be developed, indicating the approximate land area, uses, densities, and public facilities to be developed during each phase.

(ii) If different land use types are to be included within the Master Development Plan, the plan should include the mix of uses anticipated to be built in each phase.

(3) A Master Development Plan, which includes:

(a) Boundary survey of the area subject to the application;

(b) Graphic and tabular presentation of proposed site development information that clearly depicts the following:

(i) Total acreage of subject property and identification of all adjoining landowners;

(ii) Existing topography and vegetation features and proposed grading, landscaping, drainageways, utility lines, easements and other physical features;

(iii) Description of proposed land uses and proposed area, yard and bulk standards;

(iv) Location and site of all buildings and structures;

(v) Area devoted to parking facilities, access roads, walkways, driveways, parking areas and exterior lighting;

(vi) Drawing showing floor plans of residential units front and rear elevations and side elevations;

(vii) Maximum number of dwelling units and approximate densities; and

(viii) Location of common open space areas, sensitive resource areas (environmental or cultural), and proposed public facilities.

C. Referral of Preliminary Application to Planning Commission. Upon receipt of an application for a PRD floating zone, the City Council shall refer the application to the Planning Commission for review in accordance with paragraph D below.

D. Planning Commission Review and Recommendation – Floating Zone Amendment and Master Development Plan.

(1) The Planning Commission shall review the floating zone amendment request and Master Development Plan for compliance with the requirements of this Ordinance and consistency with the *Pocomoke City Comprehensive Plan*. The Planning Commission shall evaluate how the proposal meets the *Pocomoke City Comprehensive Plan* and other factors; and may retain outside consultants at the expense of the developer to assist the Planning Commission in the evaluation of the proposed PRD.

(a) The Planning Commission shall evaluate the degree to which the floating zone request and Master Development Plan incorporates and/or addresses the PRD purposes and furthers the goals and objectives of the *Pocomoke City Comprehensive Plan.*

(b) The Planning Commission may make reasonable recommendations to the petitioner regarding changes to the Master Development Plan proposal, which, in the judgment of the Commission, shall cause the proposal to better conform to the requirements of the *Pocomoke City Comprehensive Plan* and the purpose and intent of the PRD. The petitioner may resubmit the Master Development Plan to the Planning Commission in consideration of the Commission's comments.

(c) The Planning Commission may conduct a public hearing as provided in § 230-111.

(2) After deliberations the Planning Commission shall return the Master Development Plan, with any suggested revisions, together with written comments and recommendations concerning the floating zone to the City Council for action pursuant to the floating zone and Master Development Plan approval process.

E. City Council Approval of Floating Zone and Master Development Plan.

(1) The City Council shall review the Master Development Plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.

(2) The City Council may approve or disapprove the proposed floating zone map amendment and associated Master Development Plan, and shall follow the procedures set forth in Article XVII for the approval of district changes and other amendments. Concurrently with the approval of a floating zone, the City Council shall also approve the Master Development Plan, which, in addition to the provisions of the PRD, shall govern the subdivision and/or development of the property. In approving the PRD floating zone map amendment, the City Council shall make findings of fact, including, but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the surrounding areas, and the relationship of the proposed amendment to the *Pocomoke City Comprehensive Plan*. The City Council may approve the PRD map amendment if it finds that the proposed floating zone amendment is:

(a) consistent with the *Pocomoke City Comprehensive Plan*;
(b) consistent with the stated purposes and intent of the PRD District;
(c) complies with the requirements of this Pocomoke City Zoning Code; and
(d) is compatible with adjoining land uses.

(3) After approval of a floating zone amendment by the City Council, two (2) complete copies of the approved Master Development Plan shall be filed with the City Clerk. One (1) additional complete copy of the approved Master Development Plan shall be filed with the Planning Commission for reference during its subsequent review and approval of subdivision plats and/or site plans.

(4) When a PRD Development is to be constructed in phases, final subdivision plat(s) shall not be required for a phase until such time as applications have been filed for a federal, state, or local permit for construction of that particular phase.

(5) As part of the final Master Development Plan approval, the City Council may approve a date for initiation of the proposed development.

F. Additional Required Procedures.

(1) The administrative procedures for approval of a site plan for property located within the PRD are set forth in the Pocomoke City Zoning Ordinance. Site plans shall conform to the approved Master Development Plan.

(2) The administrative procedures for approval of a subdivision located within the PRD District shall be those of the Pocomoke City Subdivision Regulations set forth in the City Code. Final subdivision plats shall conform to the approved Master Development Plan.

(3) Any development, site plan or subdivision approval for land in a PRD shall be consistent with the provisions of the PRD, and the specific Master Development Plan applicable to the property, as approved or amended by the City Council.

G. Amendment of Master Development Plan.

The procedure for amendment of an approved Master Development Plan shall be the same as for a new application, except that minor amendments of a Master Development Plan may be approved by the Planning Commission at a regular meeting. The Planning Commission shall provide a summary of any minor amendments they approve to the City Council for information purposes.

Using the guidelines set forth below, the Planning Commission shall determine whether the proposed amendment is a “minor amendment”. An amendment shall be deemed a “minor amendment”, provided that such amendment:

(1) Does not conflict with the applicable purposes and land use standards of this Ordinance;

(2) Does not prevent reasonable access of emergency vehicle access or deprive adjacent properties of adequate light and air flow;

(3) Does not significantly change the general character of the land uses of the approved Master Development Plan;

(4) Does not result in any substantial change of major external access points;

(5) Does not increase the total approved number of dwelling units or height of buildings; and

(6) Does not decrease the minimum specified setbacks, open space area, or minimum or maximum specified parking and loading spaces.

The phrase "minor amendments" includes, but is not limited to, changes to: the location, number or types of uses within the PRD Development or any phase(s) thereof, subject to 3, above; internal road locations or configurations; the number, type or location of dwelling units, subject to 5, above; and the location of public amenities, services or utilities.

Any amendment of a Master Development Plan that may adversely impact upon the delivery or the City’s cost of public utilities, public services, public infrastructure, or otherwise adversely affects amenities available to the public or the public health and safety shall not be considered a minor amendment.

H. Conflict with other Articles

Provisions of the PRD Floating zone when found to be in conflict with other provisions of the Pocomoke City Zoning Ordinance and/or the Pocomoke City Subdivision Regulations shall supersede those other provisions with which they conflict.

ARTICLE IX B-1 Shopping District

§ 230-61. Site plans; applicability.

A. In addition to all other requirements of this Article, any proposed new construction or substantive exterior modification of any principal buildings or other site improvements, or additions thereto, shall be first submitted to the Planning and Zoning Commission for site plan approval, as described in § 230-91 of this chapter. A building permit for such work may be issued following approval by the Planning and Zoning Commission and subsequent approval by the Mayor and Council based upon the recommendation of the Planning and Zoning Commission.

B. The uses enumerated in this Article shall be permitted and the following regulations and the applicable regulations contained in other Articles shall apply in the B-1 Shopping District.

§ 230-62. Principal permitted uses.

Principal permitted uses in the B-1 District shall be as follows:

A. Public parks, playgrounds and cultural or historical activities.

B. Boat dock slips, piers, wharves, anchorages or moorages for yachts and pleasure boats or for boats for hire to carry passengers or for excursions, sightseeing, pleasure trips and fishing trips.

C. Government buildings.

D. Motels and hotels.

E. Any community retail business or service establishment, such as a food, drug, clothing, hardware, accessory, variety or department store, a barber-, beauty, florist or specialty shop, a shoe repair shop, an automatic laundry or cleaning shop, a bank or savings and loan office or the like supplying commodities or performing services primarily for residents of the city and surrounding community.

F. Restaurants, cafes or confectioneries.

G. Antique or gift shops.

H. Commercial parking garages and lots for passenger vehicles.

I. Theaters, bowling alleys and dance studios.

J. Funeral homes.

K. Printing, upholstery, furniture repairing and interior decorating shops, provided that all operations are confined to enclosed buildings.

L. General administrative and executive offices.

K. Pet grooming establishment provided:

(1) The pet grooming establishment shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;
(2) All animal waste shall be placed in closed waste disposal containers and shall be disposed at least weekly. Offensive odors shall be controlled;
(3) External yards or other external facilities for the keeping of animals shall not be permitted; and
(4) Any sale of pet supplies is an accessory use only.

§ 230-63. Conditional uses.

Conditional uses requiring Board authorization shall be as follows:

A. Multifamily dwellings element and meeting the following requirements:

(1) Multifamily development standards subject to § 230-53.

(2) Townhouse development subject to § 230-54.

B. Nursery schools and child-care centers when located not less than twenty (20) feet from any lot in an R District, provided that there is established and maintained a completely fenced and screened play lot of adequate size.

C. The construction, erection, modification or alteration of up to one (1) apartment for residential use at or above the second floor level in existing buildings. Such apartment may contain no more than one (1) bedroom or sleeping room, except that owner-occupied units may contain up to three (3) bedrooms. One (1) off-street parking space will be required for each such apartment, except that owner-occupied units having more than one (1) bedroom shall have two (2) off-street parking spaces. The Planning Commission may reduce or waive off-street parking requirements where it is determined by the Planning Commission that adequate on-street parking is available within 600 feet of a public entrance of the building housing the apartment unit.

D. Auto service stations, light repair and storage garages, provided that all motor tuning or testing or other noisy activities shall be conducted within enclosed buildings.

E. Neighborhood shopping centers or mini-malls.

F. City sponsored farmers markets, including produce, arts, crafts and related items.

G. Outdoor cafes.

H. Rest homes, nursing homes or for transients or permanent residents.

I. Boarding- and lodging houses.[6]

[6]Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

J. Bed and breakfast establishments.[7]

K. Community Residential Facility (Group Home)

L. The Board of Appeals may permit Solar Energy Equipment as an accessory use subject to the following:

(1) Solar Energy Equipment may be on roofs of principal buildings or ground mounted.

(2) Placement of Solar Energy Equipment is not permitted within the required front yard setback unless the Board of Appeals determines that it is adequately screened from view from the public way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public way. It is understood that this equipment may on occasion, be visible from the public way even if located in the side or the rear yard.

(3) If the solar energy equipment is unable to be located on the roof of the principal structure as is preferred, placement of ground mounted solar energy equipment in the required side or rear yard may be permitted only if the equipment is not located in the required setback for a structure in the subject zone from the property line or a distance equal to the height of the accessory structure whichever is greater.

(4) The solar energy equipment must be adequately screened from view of residential neighbors by appropriate vegetative screening or appropriate and adequate solid fencing.

(5) Any proposed fencing must comply with all applicable height requirements. Natural colored fencing is preferred.

(6) Roof mounted Solar Energy Equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations.

(7) The Board of Appeals, prior to issuing a permit for the placement of any solar energy equipment, shall be provided with any requested information in regard to proving compliance with this section. This information may include a sun and shadow diagrams specific to the subject proposed installation which would enable the Board of Appeals to determine if solar access will be impaired due to the proposed location or to the location of objects which may obstruct the solar access.

(8) The Board of Appeals may also require submission of detailed information, including maps, plans or dimensioned sketches, showing the proposed location, including setbacks from property lines or distances from structures which are used

[7] Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

for habitation on neighboring properties.

(9) The Zoning Administrator may also require the submission of an as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Board of Appeals may order its removal and/or relocation as appropriate.

M. Alcohol sales in conjunction with a restaurant only and with appropriate licenses.

§ 230-64. Accessory uses.

Accessory uses in the B-1 District shall be as follows:

A. Private garages, parking areas and other customary outbuildings and structures.

B. Identification or exterior signs pertaining only to the uses conducted on the premises. Such signs shall be integral with or attached to the building. The areas of all signs on the premises shall not exceed in the aggregate one (1) square foot for each linear foot of building frontage.

C. Directional or incidental signs, not exceeding four (4) square feet each in area, required in connection with the operation of an automobile service station, parking lot or similar use, provided that such signs do not extend over street lines nor otherwise obstruct or impair the safety of pedestrians or motorists.

D. The cleaning, laundering, repairing or other treatment of objects as a retail service to the customers on the premises, in which operation not more than three (3) persons shall be engaged at one time.

§ 230-65. Use regulations; prohibited uses.

A. All business and processing shall be conducted wholly within completely enclosed buildings, except for the farmer's market building, outdoor cafes and the sale of automobile fuels, lubricant and incidental services at service stations.

B. Off-street loading spaces and off-street parking spaces shall be regulated under special provisions as set forth in §§ 230-85 and 230-86.

C. Where a B-1 District fronts directly across the street from any R District, the parking and loading facilities shall be set back at least twenty-five (25) feet from the street line, and the intervening space shall be landscaped. All buildings in such cases shall be set back at least fifteen (15) feet.

D. Goods sold or stocked shall consist primarily of new merchandise or of bona fide antiques, except for items sold at farmers market.

E. Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of hazard, odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter or water-carried waste.

F. Prohibited uses include any uses first allowed in a lower zoning district and residential apartments or housing units at first floor (ground) level.

G. Other prohibited uses include pawn shops, tattoo parlors, body piercing parlors (not including ear piercing), adult book stores, massage parlors, and towers or similar uses.

§ 230-66. Area, yard and bulk regulations.

A. All existing lots prior to modification of this chapter are exempt.

B. For a permitted use, deeds of record and description will be considered as the lot size to be used.

§ 230-67. Height regulations.

No structure shall exceed three (3) stories or forty (40) feet in height. Where a building is to be located between two (2) existing principal buildings and within two hundred (200) feet in the same block front, the proposed building shall be constructed to a height that is the average of the height of the adjacent buildings.

§ 230-68. Downtown Central Business District.

A. All businesses established in this area shall be reviewed through the Pocomoke City Comprehensive Master Plan.

B. Replacement buildings should be the same height and have the same setbacks as the existing adjoining buildings.

ARTICLE X B-2 General Business District

§ 230-69. Site plans; applicability.

A. In addition to all other requirements of this Article, any proposed new construction or substantive exterior modification of any principal buildings or other site improvements, or additions thereto, shall be first submitted to the Planning and Zoning Commission for site plan approval, as described in § 230-91 of this chapter. A building permit for such work may be issued following approval by the Planning and Zoning Commission and subsequent approval by the Mayor and Council based upon the recommendation of the Planning and Zoning Commission.

B. The uses enumerated in this Article shall be permitted and the following regulations and the applicable regulations contained in other Articles shall apply in the B-2 General District.

§ 230-70. Principal permitted uses.

Principal permitted uses in the B-2 District shall be as follows:

A. Public parks, playgrounds and cultural or historical activities.

B. Boat dock slips, piers, wharves, anchorages or moorages for yachts and pleasure boats or for boats for hire to carry passengers or for excursions, sightseeing, pleasure trips and fishing trips.

C. Government Buildings, Churches.

D. Boarding- and lodging houses.

E. Motels and hotels.

F. Any community retail business or service establishment, such as a food, drug, clothing, hardware, accessory, variety or department store, a barber-, beauty, florist or specialty shop, a shoe repair shop, an automatic laundry or cleaning shop, a bank or savings and loan office or the like supplying commodities or performing services primarily for residents of the city and surrounding community.

G. Restaurants, cafes or confectioneries.

H. Antique or gift shops.

I. Commercial parking garages and lots for passenger vehicles.

J. Theaters, bowling alleys and dance studios.

K. Funeral homes.

L. Printing, upholstery, furniture repairing and interior decorating shops, provided that all operations are confined to enclosed buildings.

M. General administrative and executive offices.

N. Produce stands.

O. Taverns, nightclubs and drive-in eating and drinking establishments, including entertainment and dancing, provided that the principal building shall be the distance of at least two hundred (200) feet from any lot in an R District.

P. Automobile parking lots, repair shops or general garages, subject to the conditions below:

(1) No gasoline station, public garage or automobile shop shall have an entrance or exit for vehicles within two hundred (200) feet along the same side street of the premises of any school, public playground, church, hospital, public library or institution for dependents or children, except where such property is in another block or on another street which the lot in question does not abut, but in no case shall any such gasoline filling station, repair shop or garage be located within one hundred (100) feet of any said public or semi-public or institutional buildings or properties. This regulation shall not be interpreted, however, as prohibiting a parking area accessory to and on the premises of the institution itself.

(2) No gasoline filling station or public garage shall be permitted where any oil drainage pit or visible appliance for any such purpose, other than filling caps, is located within twelve (12) feet of any street lot line or within twenty-five (25) feet of any R District, except where such appliance or pit is within a building.

(3) On all corner lots, all vehicular entrances to or exits from any gasoline filling station or commercial, customer or employee parking lot for more than five (5) motor vehicles or public garage or automobile repair shop shall be not less than twenty-five (25) feet from the corner property lines extended. No such vehicular entrance or exit, whether on a corner lot or not, shall exceed forty (40) feet in width at the curbline or thirty (30) feet at the property line.

Q. Automobile, tire, battery, trailer and implement establishments for display, hire, sale or general repair, including sales lots.

R. Animal hospital, veterinary clinic or kennel, provided that any structure or area used for such purposes shall be the distance of at least two hundred (200) feet from any lot in an R District.

S. Bakery, laundry, clothes cleaning and dyeing establishments, provided that any principal building shall be the distance of at least one hundred (100) feet from any lot in an R District.

T. Wholesale business, warehousing, storage and distributing establishments, except for flammable liquids, paints, explosives or other hazardous materials.

U. Contractor's equipment storage yard for storage of equipment used by contractor.

V. Retail sales of building supplies and retail lumber yard, including mill work only when incidental.

W. Stone or monument works not employing power-driven tools or, if employing such tools, then only within a completely enclosed building which shall be the distance at least one hundred (100) feet from any lot in an R District.

X. Electric, communications, water, sewer, gas and fuel transmission lines and necessary equipment incidental thereto excluding towers, and wireless transmitting stations excluding towers, transformers, boosters, railroad lines and stations.

Y. Beer, wine or liquor take-out stores.

Z. Any other use that is determined by the Board of Zoning Appeals to be of the same general character as the above-mentioned uses.

§ 230-71. Conditional uses.

Conditional uses requiring Board authorization shall be as follows:

A. Nursery schools and child-care centers when located not less than twenty (20) feet from

any lot in an R District, provided that there is established and maintained a completely fenced and screened play lot of adequate size.

B. Residential apartments at or above the second floor level of existing commercial buildings.

C. Auto service stations, light repair and storage garages, provided that all motor tuning or testing or other noisy activities shall be conducted within enclosed buildings.

D. Neighborhood shopping centers or mini-malls.

E. Farmers markets, including produce, arts, crafts and related items.

F. Flammable liquids, underground storage only, not to exceed forty thousand (40,000) gallons, provided that the distance shall be at least two hundred (200) feet from any lot in an R District.

G. Swimming pools, dancing, skating, golf driving ranges, livery stables, riding academies, amusement parks, circuses, carnivals, pool halls, video arcades, target ranges or similar open-air recreational uses and facilities, except racetracks shall be the distance of at least two hundred (200) feet from any lot in an R District.

H. Revival tents and outdoor meetings.

I. Rest homes, nursing homes for transients or permanent residents.

J. Dry nightclubs, provided that:

(1) There shall be a separation of at least one thousand five hundred (1500) feet between dry nightclubs, and also between dry nightclubs and establishments holding liquor licenses as issued by the Worcester County Board of License Commissioners.

(2) The initial conditional use granted to an applicant by the Board of Zoning Appeals shall be for a period not to exceed one (1) year. Subsequent conditional uses may be granted for a longer period provided an acceptable performance record has been established.

(3) The hours of operation (admissions and sales) shall be from 4:00 p.m. to midnight, with patrons off the premises by 12:20 am. for under 21 dry nightclubs. The hours of operation (admissions and sales) shall be from 4:00 p.m. to 1:30 a.m. of the following day, with all patrons off the premises by 2:00 a.m. for over 21 dry nightclubs.

(4) Patrons shall be at least 15 years old and younger than 21 years old for under 21 dry nightclubs and 21 and older for over 21 dry nightclubs.

(5) There shall be a minimum of two interior security personnel at least 21 years of age on duty during all hours the club is open. If the capacity of the club exceeds 200 persons, one additional security person shall be required for each 50 persons

over 200. The functions of the security personnel shall be only security; they shall not perform other jobs such as dishwashing, bartenders, doorkeepers, etc., while customers are in the building. Security personnel shall be attired in a manner to be clearly identifiable as security personnel. Security personnel must be at least 21 years old and must pass "background" checks similar to Day Care Workers.

(6) The business must take place completely inside an enclosed building (not to exceed 2,500 square feet).

(7) The building must be completely enclosed and soundproofed.

(8) There shall be no outside amplification of any sound.

(9) There shall be no outside hawking, soliciting of customers, electronic displays, or dissemination of promotional materials.

(10) There shall be no activity outside the building other than customer parking, ingress and egress. Patrons are not permitted to congregate in the parking lot of other portions of the premises, except in line to enter the building.

(11) There must be a minimum distance of one thousand (1,000) feet of separation between any building used as a dry nightclub and any lot in my R district.

(12) All parking and other requirements of the City Code must be satisfied.

(13) Applications requirements.

(a) If the applicant is a corporation, partnership or joint venture, each stockholder, partner, or person affiliated with the corporation, partnership or joint venture shall be identified on the application. The application shall include the address and telephone number of each such person. The name, address and telephone number of the manager or other person principally in charge of the operation shall also be included on the application.

(b) All applicants shall be at least 21 years of age.

(c) The following documentation must be submitted with the conditional use and license applications:

(i) A letter from the Pocomoke Chief of Police stating whether any of the applicants have, in the past five (5) years, been convicted of any felony or misdemeanor.

(ii) A letter from the Worcester County Fire Marshal stating that the application meets all applicable fire code regulations, reporting whether the applicant or club bas violated any fire provisions in previous operations, and stating the allowed capacity of the club.

(iii) A letter from the Pocomoke City Zoning Administrator reporting whether applicant or club has had any violations of zoning

ordinance or previous Conditional Use Agreements.

(d) Any fraudulent, misleading or false statements contained in the application or made during the Conditional Use approval process shall be grounds for denial of the Conditional Use request and issuance of a business license and dry nightclub license, or for revocation of such licenses, if determined after their issuance.

K. Community Residential Facility (Group Home)

L. Kennel, Commercial

M. The Board of Appeals may permit Solar Energy Equipment as an accessory use subject to the following:

(1) Solar Energy Equipment may be on roofs of principal buildings or ground mounted.

(2) Placement of Solar Energy Equipment is not permitted within the required front yard setback unless the Board of Appeals determines that it is adequately screened from view from the public way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public way. It is understood that this equipment may on occasion, be visible from the public way even if located in the side or the rear yard.

(3) If the solar energy equipment is unable to be located on the roof of the principal structure as is preferred, placement of ground mounted solar energy equipment in the required side or rear yard may be permitted only if the equipment is not located in the required setback for a structure in the subject zone from the property line or a distance equal to the height of the accessory structure whichever is greater.

(4) The solar energy equipment must be adequately screened from view of residential neighbors by appropriate vegetative screening or appropriate and adequate solid fencing.

(5) Any proposed fencing must comply with all applicable height requirements. Natural colored fencing is preferred.

(6) Roof mounted Solar Energy Equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations.

(7) The Board of Appeals, prior to issuing a permit for the placement of any solar energy equipment, shall be provided with any requested information in regard to proving compliance with this section. This information may include a sun and shadow diagrams specific to the subject proposed installation which would enable the Board of Appeals to determine if solar access will be impaired due to the proposed location or to the location of objects which may obstruct the solar access.

(8) The Board of Appeals may also require submission of detailed information, including maps, plans or dimensioned sketches, showing the proposed location, including setbacks from property lines or distances from structures which are used for habitation on neighboring properties.

(9) The Zoning Administrator may also require the submission of an as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Board of Appeals may order its removal and/or relocation as appropriate.

§ 230-72. Accessory uses.

Accessory uses in the B-2 District shall be as follows:

A. Private garages, parking areas and other customary outbuildings and structures.

B. Directional or other incidental signs, not exceeding four (4) square feet each in area, required in connection with the operation of an automobile service station, parking lot or similar use, provided that such signs do not extend over street lines nor otherwise obstruct or impair the safety of pedestrians or motorists.

C. The cleaning, laundering, repairing or other treatment of objects as a retail service to the customers on the premises, in which operation not more than three (3) persons shall be engaged at one time.

D. Identification or exterior signs pertaining only to the uses conducted on the premises. Such signs shall be integral with or attached to the building or freestanding. The areas of all signs on the premises shall not exceed in the aggregate two (2) square feet for each linear foot of building frontage. Freestanding signs shall not extend over street lines nor otherwise obstruct or impair the safety of pedestrians or motorists.

§ 230-73. Use regulations; Prohibited Uses.

A. Processes, equipment employed and goods processed and sold shall be limited to those which are not objectionable by reason of hazard, odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter or water-carried waste.

B. The front of lots for public display or sale of automobiles, trucks, trailers, implements, boats or other machinery or equipment shall be landscaped and neatly maintained. No lighting of such lot, other than minimum protective night lighting, shall remain on after normal business hours. All lighting shall be shaded so as to direct the light away from residential premises and from public streets.

C. Along any side adjacent to any R District or institutional premises, an ornamental wall, fence or compact evergreen hedge and wire fence, not less than four (4) feet nor more than six (6) feet high, shall be installed and maintained in good condition, without any advertising attached to it.

D. Prohibited uses include any uses first allowed in a lower zoning district, and pawn shops,

tattoo parlors, body piercing parlors (not including ear piercing) adult book stores, massage parlors, towers, and similar uses.

§ 230-74. Height regulations.

No structure shall exceed three (3) stories or forty (40) feet in height. All public and semi-public utility buildings and structures must meet the requirements of § 230-93.

§ 230-75. Area, yard and bulk regulations.

The following minimum requirements shall be observed:

A. Lot area and width requirements.

Permitted Uses	Minimum Lot Area (square feet)	Minimum Lot Width (feet)
As listed in B-2 General Business	6,000	60

B. Yard requirements.

	Front Yard Depth (feet)	Side Yard Width, Each Side Yard (feet)	Rear Yard Depth (feet)
Minimum (Property line behind curb line)	25	5	20

C. All setbacks should be comparable with adjoining buildings and not less than twenty-five foot frontage.

ARTICLE XI M-1 Light Industrial District

§ 230-76. Purpose.

A. The purpose of this Article is to provide for the establishment of an industrial park district, recognizing that the trend in industrial development is toward protected industrial zones.

B. This Article is intended to provide suitable standards for the development of industrial parks within an area defined on the City Zoning Map.[8]

§ 230-77. Site plans.

[8]Editor's Note: The Zoning Map is on file in the office of the Zoning Inspector.

In addition to all other requirements of this Article, any proposed new construction or substantial exterior modification of any principal buildings or other site improvements, or additions thereto, shall be first submitted to the Planning and Zoning Commission for site plan approval, as described in § 230-91 of this chapter. A building permit for such work may be issued following approval by the Planning and Zoning Commission and subsequent approval by the Mayor and Council based upon the recommendation of the Planning and Zoning Commission.

§ 230-78. Principal permitted uses.

Principal permitted uses in the M-1 District shall be as follows:

A. The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, musical instruments, novelties, molded rubber or plastic products, electronic appliances, instruments or devices, optical or dental goods, printed matter and similar products.

B. The preparation or packaging of food products, except for rendering plants. The processing of seafood, including storage of completed inventory and other necessary materials, shall not include the opening, shucking, picking, scaling or deboning of any seafood. The processing of other food products will be allowed so long as it does not adversely affect the operation of the Pocomoke Sewage Treatment Plant.

C. The manufacturing, compounding, blending assembly or treatment of articles of merchandise from previously prepare materials, such as bone, cloth, cork, fiber, feathers, paper, plastics, metals, stone, thread, tobacco, wax, yarn, chemicals, liquids or similar products, except that no sawmill, planing mill or punch press shall be permitted without a variance from the Board.

D. The manufacturing of pottery or other similar ceramic products using only previously pulverized clay and kilns fired only by gas or electricity.

E. Laboratories, chemical, physical or biological, not including high explosives or toxic chemicals, fumes, odors, etc.

F. The manufacturing and repair of electric signs, advertising structures and light sheet metal products (heating and ventilating equipment).

G. Plumbing and roofing shops.

H. The following uses when conducted wholly within completely enclosed buildings:

(1) Automobile, truck trailer, bus, implement, machinery or similar equipment fabrication assembly or major repair including machine shops, structural steel and fabrication shops.

(2) Automobile body or paint shops.

(3) Tire recapping plants.

(4) Creamery, bottling, ice manufacturing or cold storage plant or milk distributing

depot.

(5) Foundry casting lightweight nonferrous metals or electric foundry not producing noxious fumes or odor.

(6) Bag, carpet and rug cleaning plants, provided that equipment is used to effectively precipitate or recover dust.

(7) Manufacturing of boxes, furniture, cabinets, baskets and other wood products of similar nature.

(8) Wholesale merchandising and storage warehouses, with floor area devoted to warehousing and handling of merchandise, excluding fuels and other flammable liquids or explosives.

(9) Freezer plants or frozen food storage facilities.

I. Other similar uses as determined by the Planning and Zoning Commission. Uses not specified or determined to be similar to other permitted uses by the Planning and Zoning Commission must be approved by the Board of Zoning Appeals.

J. Fairgrounds and racetracks.

K. Hair or hair products manufacturing.

L. Chicken hatchery.

M. Kennel, Commercial

§ 230-79. Conditional Uses.

Conditional uses requiring Board authorization shall be as follows:

A. Towers, but subject to the following minimum additional requirements in addition to all requirements of this Article as applicable.

(1) Towers shall be located a minimum distance of two hundred feet (200') from any lot line, street or right-of-way or a minimum of one hundred fifty feet (150') plus the height of the tower, from any lot line, street or right-of-way, whichever is greater.

(2) The engineering, design and construction of towers is subject to approval of the Board.

(3) Towers shall be enclosed by decay resistant security fencing not less than six feet (6') in height equipped with an anti-climbing device or other similar protective device designed to prevent tower access.

B. The operation of an aquaculture facility and business, including but not limited to the raising and production of fish and all types of marine life, with the exception of shell fish,

but including crayfish, shrimp and related species, in tanks, in enclosures and in enclosed ponds. The permitted use of aquaculture also includes, but is not limited to, the raising of said fish and marine life a hereinbefore recited, the processing of the same on site, including the scaling, evisceration, filleting, packaging, smoking, and/or curing of the same, and the storage of living and processed aquaculture products, but not the long-term storage, processing or on-site disposal of fish and marine life body parts of by-products that are not intended for resale for human consumption.

C. Gas storage (fuel), including liquefied gas, for distribution to customers.

D. Candle manufacturing.

E. Concrete mixing plants.

F. Cooperage works.

G. Meat packing and seafood packing, but not stockyards or slaughterhouses.

H. Sandblasting or cutting.

I. Sawmill or planing mill or the manufacture of excelsior, wood fiber or sawdust products.

J. Stone or monument works employing power driven tools.

K. Boiler shops, machine shops, structural steel fabrication shops and railway repair shops.

L. Brick, pottery, tile or terra cotta manufacturing.

M. Forge or foundry works.

N. Any other use which in the opinion of the Board of Zoning Appeals is of similar character to those specified above.

O Community Treatment Facility (Rehabilitation House), Secure Community Transition Facility (Halfway House) subject to the following conditions:

(1) The use is located or maintained at a distance so that it is not across the street from, across the parking lot from, adjacent to, or within the line of sight of the following pre-existing uses, as measured from the nearest property line of the Secure Community Transition Facility or Community Treatment Facility to the nearest property line of the pre-existing use. The definition of “within line of sight” means that it is possible to reasonably and visually distinguish and recognize individuals. For the purposes of granting a conditional use permit, the Board of Appeals shall consider an unobstructed visual distance of 600 feet to be “within line of sight.” Through the conditional use process, “line of sight” may be considered to be less than 600 feet if the applicant can demonstrate that visual barriers exist or can be created that would reduce the line of sight to less than 600 feet.

(a) Public library;
(b) Public playground, sports field, recreational center, community center, park, publicly dedicated trail;
(c) Public or private school and its grounds of pre-school to twelfth grade;
(d) School bus stop;
(e) Child day-care center;
(f) Place-of worship such as church, mosque, synagogue, and temple;
(g) Another Secure Community Transition Facility subject to the provisions of this section; and
(h) Any other risk potential activity or facility identified by the Board of Appeals.

(2) The Secure Community Transition Facility or Community Treatment Facility shall meet all applicable state, federal, and local licensing for a facility authorized by state, federal, or local authorities to confine and treat sex offenders through a rehabilitation treatment program for those conditionally released from total confinement under a court-ordered civil commitment; and

(3) The applicant shall demonstrate that it has met all the standards required by state law for public safety, staffing, security, and training, and those standards shall be maintained for the duration of the operation of the Secure Community Transition Facility or Community Treatment Facility.

P. Small Wind Energy System may be permitted as an accessory use in M-1 District districts subject to the following requirements:

(1) Setbacks. A wind tower for a Small Wind Energy System shall be set back a distance equal to its total height plus an additional 20 feet from:

(a) any State, City or County right-of-way or the nearest edge of a State, City or County roadway, whichever is closer;
(b) any right of ingress or egress on the owner's property;
(c) any overhead utility lines;
(d) all property lines; and
(e) any existing guy wire, anchor or small wind energy tower on the property.

(2) Access.

(a) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
(b) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.

(3) Electrical wires. All electrical wires associated with a Small Wind Energy

System, other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.

(4) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the Small Wind Energy Systems, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from abutting properties.

(5) Appearance, color, and finish. The wind generator and wind tower shall remain painted or finished the color or finish that was originally applied by the manufacturer.

(6) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, wind tower, building, or other structure associated with a Small Wind Energy System visible from any public road shall be prohibited.

(7) Code compliance. A Small Wind Energy System including wind tower shall comply with all applicable construction and electrical codes.

(8) Utility notification and interconnection. Small Wind Energy Systems that connect to the electric utility shall comply with the Public Service Commission regulations.

(9) Small Wind Energy Systems shall not be attached to any building, including guy wires.

(10) Each property is eligible for two Small Wind Energy Systems only.

(11) Abandonment.

(a) A Small Wind Energy System that is out-of-service for a continuous 6-month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the owner of a Small Wind Energy System that is deemed to have been abandoned. The Owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action, within 30 days from the date of the Notice. The Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned.

(b) If the Small Wind Energy System is determined to be abandoned, the owner of a Small Wind Energy System shall remove the wind generator from the wind tower at the Owner's sole expense within 3 months of the date of Notice of Abandonment. If the owner fails to remove the wind generator from the wind tower, the Administrator may pursue a legal

action to have the wind generator removed at the Owner's expense.

(12) Public Service Commission.

In accordance with the Maryland Annotated Code, Public Utilities Companies any property owner seeking to construct a Small Wind Energy System and connect such system to the main power grid with the capability of transporting energy back to their main power company shall apply to the Public Service Commission (PSC) for approval and provide documentation of such approval to the City prior to construction and being issued a building permit.

(13) Variances.

Variances to the distances, restrictions, and standards contained in this Article are not permitted.

(14) Noise.

All Small Wind Energy Systems shall comply with the limitations contained in the State law.

(15) Violations.

It is unlawful for any person to construct, install, or operate a Small Wind Energy System that is not in compliance with this chapter or with any condition contained in a building permit issued pursuant to this chapter.

Q. The Board of Appeals may permit Solar Energy Equipment as an accessory use subject to the following:

(1) Solar Energy Equipment may be on roofs of principal buildings or ground mounted.

(2) Placement of Solar Energy Equipment is not permitted within the required front yard setback unless the Board of Appeals determines that it is adequately screened from view from the public way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public way. It is understood that this equipment may on occasion, be visible from the public way even if located in the side or the rear yard.

(3) If the solar energy equipment is unable to be located on the roof of the principal structure as is preferred, placement of ground mounted solar energy equipment in the required side or rear yard may be permitted only if the equipment is not located in the required setback for a structure in the subject zone from the property line or a distance equal to the height of the accessory structure whichever is greater.

(4) The solar energy equipment must be adequately screened from view of residential neighbors by appropriate vegetative screening or appropriate and adequate solid fencing.

(5) Any proposed fencing must comply with all applicable height requirements. Natural colored fencing is preferred.

(6) Roof mounted Solar Energy Equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations.

(7) The Board of Appeals, prior to issuing a permit for the placement of any solar energy equipment, shall be provided with any requested information in regard to proving compliance with this section. This information may include a sun and shadow diagrams specific to the subject proposed installation which would enable the Board of Appeals to determine if solar access will be impaired due to the proposed location or to the location of objects which may obstruct the solar access.

(8) The Board of Appeals may also require submission of detailed information, including maps, plans or dimensioned sketches, showing the proposed location, including setbacks from property lines or distances from structures which are used for habitation on neighboring properties.

(9) The Zoning Administrator may also require the submission of an as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Board of Appeals may order its removal and/or relocation as appropriate.

§ 230-80. General standards and requirements.

A. Construction and alterations. No buildings, fences, landscaping, wall structure or alterations shall be commenced unless complete plans and specifications therefore, showing the nature, kind, shape, size, construction materials, color scheme and the location of such structure or alteration, and, when requested, any grading plans shall be first submitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall have the right to refuse to approve any such plans or specifications, grading plans, material or color scheme that is not suitable or desirable in its opinion for aesthetic or other reasons. Every building or other structure placed on any part of said property shall be constructed from new material. The exterior walls of all such buildings or structures shall be fireproof material. No wooden frame buildings are allowed.

B. Lot size. The minimum lot size for industrial development will be two (2) acres.

C. Setbacks. All buildings and other structures shall comply with the following setback requirements (minimums):

(1) Front setback: fifty (50) feet from street right-of-way.

(2) Rear setback: twenty-five (25) feet, except a rear property line forty (40) feet from any adjoining residential zoned property.

(3) Side setback: fifty (50) feet from any street right-of-way or adjoining property,

except thirty (30) feet from any adjoining industrial-zoned property line.[9]

D. Appearance and landscaping.

(1) Front setback areas shall be used for grass, shrubbery, ornamental trees, standard width driveway and/or sidewalk and shall be maintained in a park like condition at all times. Other land areas, including those at the sides of buildings, shall likewise be maintained in a condition which is compatible with the landscaped front area. Landscaping shall be accomplished within one (1) year of completion of the initial building. Landscaping plans must be approved, in writing, by the Pocomoke City Planning and Zoning Commission.

(2) All automobiles and truck parking and/or loading areas shall be adequately screened from the road or roads on which the property faces by the construction and proper maintenance of a suitable fence or planting screen. All lessees, tenants or users of any parcel must maintain such landscaping in a condition as to present a pleasing appearance.

(3) No truck parking, loading or storage areas are permitted in the front of the property.

E. Loading docks. No loading dock shall be located fronting on any street without the written consent of the Pocomoke City Planning and Zoning Commission. Provisions for handling all freight, either railroad or truck, insofar as possible, shall be on those sides of any building which do not face any street or proposed street. Where possible, all loading shall be accomplished in the rear of the premises.

F. Parking. On street parking is not permitted. Adequate parking spaces shall be provided by the owner on the site for all types of vehicles, including those of employees, managerial personnel, visitors and other vehicles associated or used in any manner, whether regularly or temporarily, with respect to the operation of the owner's business. The required parking spaces shall be constructed to provide a dust free and all-weather surface. No parking shall be allowed in front of any building. Parking areas should be landscaped for aesthetic purposes.

G. Grades. No change in grade or elevation of land shall be made without written approval from the Pocomoke City Planning and Zoning Commission.

H. Time limitations. Should building construction not be started in good faith within one (1) year of land purchase, the owner shall resell the land to Pocomoke City at the original price. Once erection of any building is begun, work thereon must be prosecuted diligently and it must be completed within a reasonable time.

I. Storage. No storage is permitted in setback areas. Outside storage of refuse, mobile equipment, tanks, containers, pallets and like materials is permitted only if screened with suitable landscaping, plantings or decorative walls which attractively and adequately screen from view the materials stored. No truck parking or storage area is permitted in the

[9] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

front of the property.

J. Signs. Signs shall contain only the name of the business, its slogan, trademarks, if any, and brief mention of products or services. Signs may not extend above the principal roof of the building, except that a sign may be attached flat against or painted on a parapet wall not exceeding five (5) feet above such roofline. Freestanding signs may be constructed on the property but may not exceed six (6) feet in height. Total sign area allowed will be up to two (2) square feet per foot of building frontage, up to a maximum aggregate of three hundred (300) square feet in area. No billboard, sign or other advertising device of any character shall be erected, posted, displayed or permitted upon any part of the herein described property, except with the written approval of the Pocomoke City Planning and Zoning Commission.

K. Fire hazard; nuisances. No part of the land and no building or structure erected thereon shall be used or allowed to be used at any time for the manufacture, storage, distribution or sale of any product which may increase the fire hazard of any adjoining property or which shall cause a nuisance, nor shall any activity be engaged in which injures the reputation of the park or of the neighboring properties.

L. Maintenance of premises. Premises must at all times be kept in a safe, clean, wholesome condition and comply in all respects with government, health and policy regulations and requirements. All refuse or rubbish of any character whatsoever must be promptly removed and not allowed to accumulate on the premises, notwithstanding the provisions of Subsection I above.

M. Site coverage. No building shall be erected upon an area in excess of fifty percent (50%) of the parcel upon which it is located, exclusive of required parking, driveways, loading, etc. The Pocomoke City Planning and Zoning Commission reserves the right to modify a minimum ratio of building area to site area in order to make efficient use of the industrial park property.

N. Building uses. No building shall be constructed or used primarily for residential, retail or commercial purposes. Retailing of merchandise is allowed on site only if it is a secondary use.

O. Underground wires. All electrical and telephone connections and wires to buildings facing on streets or highways shall be made underground from the nearest pole line, and any transformer required shall not be located on any pole line but shall be placed on the surface and shall be adequately screened and fenced, and all such installations shall be subject to approval by the Pocomoke City Planning and Zoning Commission.

P. Temporary structures. No structure, covering, garage, barn or other outbuilding of a temporary nature shall be situated, erected or maintained on any parcel on the subject property. This subsection shall not apply to construction buildings and/or storage facilities used during the course of construction of any permanent building which is to be located on the subject property.

Q. Fences. No hedge, fence or wall shall be grown, constructed or maintained on those portions of any parcel within side or rear yard setback areas that exceeds eight (8) feet in height. No fence, hedge or wall shall be allowed within the front yard setbacks.

R. Resubdivision. The property shall not be resubdivided until a plan for such proposed resubdivision shall have been submitted and approved pursuant to Chapter 205, Subdivision of Land.

S. Change of use of property. No use of property other than uses approved by the Pocomoke Planning and Zoning Commission shall be permitted without the review and approval of the Pocomoke City Planning and Zoning Commission.

T. In the event that any provisions of the within industrial park district code shall be in conflict with any other provision of this chapter, the provisions herein shall control.

U. Notwithstanding any other provision of this Article, any property in the M-1 Zone which is owned and developed by the City of Pocomoke City need not conform to these requirements.

§ 230-81. Height regulations.

No principal structure shall exceed three (3) stories or forty (40) feet in height. All public and semi-public utility buildings and structures must meet the requirements of § 230-93.

§ 230-82. Prohibited uses.

The following uses shall be prohibited in the M-1 District:

A. Any use in conflict with any law or regulation of Pocomoke City, Worcester County, the State of Maryland or the United States of America.

B. Any dwelling, house trailer, school, hospital, church, clinic or other institution for human care, provided that any dwelling, trailer, school, hospital, church, clinic or other institution for human care legally existing in the M-1 District at the time of the enactment of this chapter or any amendment thereto shall not be subject to any of the limitations or other regulations prescribed for nonconforming uses elsewhere in this chapter.

C. Any of the following uses:

(1) Acetylene manufacture in excess of fifteen (15) pounds pressure per square inch.

(2) Acid manufacture.

(3) Asphalt or tar roofing or waterproofing manufacture.

(4) Bleaching powder, ammonia or chlorine manufacture.

(5) Celluloid or pyroxylin manufacture or processing.

(6) Creosote manufacture or creosoting plant.

(7) Disinfectant, insecticide or poison manufacturing.

(8) Distillation of bones.

(9) Manufacture or storage of explosives, including fireworks.

(10) Fat rendering.

(11) Feed manufacturing from refuse or mash.

(12) Gas generation.

(13) Glue or size manufacture.

(14) Lime, gypsum, plaster or plaster of paris manufacture.

(15) Match manufacture.

(16) Nuclear materials, production or processing.

(17) Oil or gas drilling or wells.

(18) Paper or pulp manufacturing.

(19) Petroleum refining or reprocessing of petroleum or coal tar products.

(20) Potash manufacturing.

(21) Radium extraction.

(22) Soap manufacturing.

(23) Soda, soda ash, caustic soda or washing compound manufacture.

(24) Starch, glucose or dextrine manufacture.

(25) Sugar refining.

(26) Tar distillation or manufacturing.

(27) Turpentine, varnish or shellac manufacture.

(28) Chicken house for raising chickens or other fowls except chicken hatcheries.

(29) Billboards, except as provided in § 230-90 or elsewhere in this chapter.

(30) Fuel depots.

(31) Metal plating operations.

(32) Towers.

ARTICLE XII RESERVED

ARTICLE XIII Parking, Loading and Use Regulations

§ 230-85. Off-street loading spaces.

A. In any business or in any industrial district, in connection with every building or part thereof hereafter erected, improved, altered or extended having a gross floor area of ten

thousand (10,000) square feet or more and which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other use similarly requiring the receipt or dispatch by vehicle of materials or merchandise there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space, plus one (1) additional loading space for each thirty thousand (30,000) square feet, plus two (2) additional loading spaces for each fifty thousand (50,000) square feet, plus three (3) additional loading spaces for each seventy thousand (70,000) square feet.

B. Each loading space shall be at least ten (10) feet in width, sixty (60) feet in length and fourteen (14) feet in clear height.

C. Such space may occupy all or any part of any required yard or court space, except a front yard or the required side yard on the street side of a corner lot.

D. No such space shall be located closer than fifty (50) feet to any lot located in any R District, unless the loading space is wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence not less than six (6) feet in height.

§ 230-86. Off-street parking areas.

A. In all districts except the B-1 District, in connection with every industrial, commercial, business, trade, institutional, recreational, dwelling or other use, space for parking and storage of vehicles off the streets shall be provided to accommodate its normal parking requirements, as determined by the Zoning Inspector at the time of application for a zoning certificate, but in any case not less than the following:

(1) Automobiles sales and service garages: one (1) space per two hundred (200) square feet, minimum three (3) spaces.

(2) Banks, business offices and professional offices other than a doctor's office: fifty percent (50%) of floor area.

(3) Bowling alleys: five (5) spaces for each alley.

(4) Churches, schools and day-care centers: one (1) space for each three (3) seats in a principal auditorium or one (1) space for each ten (10) classroom seats or students, whichever is greater.

(5) Convalescent and nursing homes, community residential facility (group home), assisted living facilities and similar facilities: one (1) space for each four (4) beds, one (1) space for each employee and one (1) additional space an ambulance or other emergency vehicle shall be no smaller than the dimensions required for a handicap parking space. A minimum of one (1) bus parking space located so as to provide safe and convenient loading and unloading of passengers.

Adult day care centers: one space for each four (4) participants, one (1) space for each employee and one (1) additional space for loading and unloading an ambulance or other emergency vehicle. The space for loading and unloading an ambulance or other emergency vehicle shall be no smaller than the dimensions required for a handicap parking space.

(6) Dance halls and assembly halls: three hundred percent (300%) of floor area used for dancing or assembly.

(7) Doctor's office: eight (8) parking spaces per doctor.

(8) Multifamily dwellings: two (2) parking spaces per dwelling unit. One and one-half (1 1/2) parking spaces for each family or dwelling unit in an age restricted or age qualified development.

(9) Funeral homes and mortuaries: twenty (20) spaces or at least one (1) space for each three (3) persons of estimated maximum capacity.

(10) Furniture and appliance stores and household equipment or furniture repair shops, over one thousand (1,000) square feet of floor area: one hundred percent (100%) of floor area.

(11) Hospitals: one (1) space for each bed.

(12) Hotels, motels and lodging houses not located in the B-1 District: one and one-half (1 1/2) spaces for each bedroom.

(13) Manufacturing plants: one (1) space for each two (2) employees on the maximum working shift or twenty-five percent (25%) of floor area, whichever is the greater.

(14) Restaurants, amusement centers, pool halls, beer parlors and nightclubs: three hundred percent (300%) of floor area.

(15) Retail stores, supermarkets, etc., over two thousand (2,000) square feet of floor area: two hundred percent (200%) of floor area.

(16) Retail stores, shops, etc., under two thousand (2,000) square feet of floor area: one hundred percent (100%) of floor area.

(17) Sports arenas, auditoriums, theaters and assembly halls with fixed seats: one (1) space for each three (3) seats.

(18) Commercial or club swimming pools: one (1) space for each three (3) members or each three (3) persons of estimated maximum capacity.

(19) Wholesale establishments or warehouses: one (1) space for each two (2) employees or ten percent (10%) of floor area, whichever is greater.

(20) Neighborhood shopping centers or mini-malls: one space for each two hundred and fifty square feet of gross floor areas.

B. In the case of any building, structure or premises the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is most nearly similar shall apply.

C. Parking spaces, other than residential uses, licensed day-care provider homes in residential zones and other customary home occupations allowed in the R-2 and R-3 Zones and properly approved for conditional use by the Board, shall be designed to prevent motor vehicles from backing onto a public street in order to leave the lot. Each parking space shall be at least nine (9) feet wide and eighteen (18) feet deep.

D. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be improved and maintained in accordance with the following requirements:

(1) Every off-street parking area for more than (5) vehicles shall be located at least fifteen (15) feet from every street line and five (5) feet from every residential lot line. The edges of the parking area shall be curbed or buffered, and the space between parking area and street or lot line shall be landscaped and maintained in sightly condition. Where adjoining a street, such landscaping shall consist of grass and low shrubs or ornamental trees; where adjoining a residential lot, it shall include a hedge of sufficient type and height (not less than thirty (30) inches) to protect and screen the adjoining property. If an ornamental wall or fence is installed in lieu of such hedge and accomplishing the same purpose, then the five-foot strip may be omitted.

(2) Any off-street parking area, including any commercial parking lot, for more than five (5) vehicles, shall be surfaced or kept treated in such manner as may be necessary to prevent any dust nuisance to the neighboring property or the general public, shall be so graded and drained as to dispose of all surface water accumulation within the area and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.

(3) Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to direct the light away from adjoining residential premises and from public streets.

(4) Handicap parking spaces and dimensions shall be provided in accordance with state law.

(5) Every parking area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or bump against or damage any wall, vegetation, or structure.

E. The Board of Appeals may authorize, subject to the provisions of § 230-107, a modification, reduction or waiver of the foregoing requirements if it should find that in the particular case appealed the peculiar nature of the residential, business, trade, industrial or other use, or the exceptional shape or size of the property or other exceptional situation or condition, would justify such modification, reduction or waiver.

F. **Flexibility in Administration Required**

(1) Pocomoke City recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in this subsection may result in a development either with inadequate parking space or parking space in excess of its needs.

(2) Alternative off-street parking standards may be accepted if the applicant can demonstrate that such standards better reflect local conditions and needs.

(3) Without limiting the generality of the foregoing, the Planning and Zoning Commission may allow deviations from the parking requirements set forth in this subsection when it finds that:

(a) A residential development is irrevocably oriented toward the elderly;

(b) A business is primarily oriented to walk-in trade.

(c) Utilizing gross floor area as a measure of parking demand may over- or

under-state actual need.

(4) Whenever the Planning and Zoning Commission allows or requires a deviation from the parking requirements set forth in this subsection it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(5) If the Planning and Zoning Commission concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established in this subsection for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in Article XVII.

G. Joint Use of Required Parking Spaces

(1) The Planning and Zoning Commission may permit one parking area to contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.

(2) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally ninety (90) percent vacant on weekends, another development that operates only on weekends could be credited with ninety (90) percent of the spaces on that lot. Or, if a church parking lot is generally occupied only to fifty (50) percent of capacity on days other than Sunday, another development could make use of fifty (50) percent of the church lot's spaces on those other days.

(3) If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of Section H are also applicable.

(4) In the case of mixed uses (with different parking requirements occupying the same building or premises) or in the case of a joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except that parking requirements for permitted accessory retail and service uses in a hotel, motel, or motor lodge that contains fifty (50) or more dwelling units may be reduced by the following percentages:

(a) Retail sales, offices, service establishments, fifty (50) percent.

(b) Restaurants and dining rooms, seventy (75) percent.

(c) Ballrooms, banquet halls, meeting rooms, auditoriums, eighty (80) percent.

(5) Off-street parking areas required for residential use shall not be included in any joint parking arrangement.

H. Satellite Parking

(1) If the number of off-street parking spaces required by this Ordinance cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or

nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as satellite parking spaces.

(2) All such satellite parking spaces (except spaces intended for employee use) must be located within three hundred (300) feet of a public entrance of a principal building housing the use associated with such parking, or within three (300) feet of the lot on which the use associated with such parking is located if the use not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance. No more than forty (40) percent of the total required spaces are to be located in satellite parking spaces.

(3) Anyone wishing to take advantage of the provisions of this Section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The applicant must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.

(4) All satellite parking spaces shall be located in the same zoning district as the structures or uses served or shall abut at least fifty (50) feet, either directly or across an alley, from the structure or uses served.

(5) Satellite parking spaces shall be used solely for the parking of passenger automobiles. No commercial repair work or service of any kind shall be conducted, and no charge shall be made for parking. No sign of any kind, other than designating ownership, entrances, exits, and conditions of use, shall be maintained on such satellite parking areas.

(6) Each entrance and exit to and from such parking area shall be at least twenty (20) feet distant from any adjacent lot line located in any residential zone.

(7) The satellite parking areas shall be subject to all requirements of this Ordinance concerning surfacing, lighting, drainage, landscaping, screening, and setbacks.

§ 230-87. Filling stations, public garages and parking lots.

A. No gasoline filling station, public garage or automobile repair shop shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of a street of the premises of any school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut, but in no case shall any such gasoline filling station, garage or shop be located within one hundred (100) feet of any of said public, semi-public or institutional buildings or properties. This regulation shall not be interpreted, however, as prohibiting a parking area accessory to and on the premises of the institution itself.

B. No gasoline filling station or public garage shall be permitted where any oil draining pit or visible appliance for any such purpose, other than filling caps, is located within twelve (12) feet of any street lot line or within twenty-five (25) feet of any R District, except where such appliance or pit is within a building.

C. On all corner lots, all vehicular entrances to or exits from any gasoline filling station, commercial, customer or employee parking lot for more than five (5) motor vehicles or public garage or automobile repair shop shall be not less than twenty-five (25) feet from the corner property lines extended. No such vehicular entrance or exit, whether on a

corner lot or not, shall exceed forty (40) feet in width at the curbline or thirty (30) feet at the property line.

§ 230-88. Motels.

Every motel shall comply with all sanitary and other requirements prescribed by law or regulation and, in addition:

A. All buildings shall be distant not less than twenty (20) feet from every property line.

B. The buildings shall not occupy in the aggregate more than twenty-five percent (25%) of the gross lot area.

C. No vehicular entrance to or exit from any motel of more than ten (10) units shall be within two hundred (200) feet along streets of a school, public playground, church, hospital, library or institution for dependents or for children, except where such building or property is in another block or fronts on a street on which such motel will have no entrance or exit.

D. No existing motel or similar establishment shall be enlarged or extended unless the entire establishment is made to conform substantially to all requirements for a new motel.

§ 230-89. Temporary buildings; recreational vehicles.

A. Temporary buildings and structures, including trailers, for uses incidental to construction work on the premises shall be permitted in any district where such construction is being done by a responsible contractor or builder under a contract having a definite completion date and on condition that such temporary buildings and structures shall be removed upon the completion or discontinuance of construction.

B. Parking of a residential trailer or mobile home shall be prohibited in any district, except that no more than one (1) licensed trailer or recreational vehicle may be parked and stored in an accessory building or in the rear yard of a principal use only, provided that no living quarters shall be maintained nor any business conducted in such trailer or recreational vehicle while it is parked or stored.

§ 230-90. Billboards and other signs.

Billboards and other outdoor advertising signs and structures, where permitted, shall be subject to the following conditions:

A. Billboards. Except as otherwise provided herein, no billboard shall be permitted in any district.

B. Real estate signs. Temporary real estate signs advertising improved property and not exceeding twelve (12) square feet in size shall be set back from the front lot line at least one-half (1/2) the distance required for a principal building on the lot, and no zoning certificate for the erection of such sign shall be required, provided that it conforms to this section and other provisions of this chapter. Other real estate signs shall be set back from every street line at least a distance in feet equal to one-half (1/2) the number of square feet area of the sign, provided that such setback shall be not less than forty (40) feet from the right-of-way line in any R District and not less than the front yard depth required for a principal building in any B or M District; provided, further, that such setback need not be more than one hundred (100) feet.

C. Signs in general. No billboard, real estate sign, accessory or other sign, sign structure or similar device shall be located so as to obstruct or conflict with traffic sight lines or traffic control signs or signals, especially at traffic intersections. Signs visible from a public road shall not contain the word "stop" or "danger" or otherwise simulate traffic control or other official signs. No lighting shall be permitted of signs or for advertising purposes which is of a flashing, intermittent, rotating or other animated type or which simulates that of any police or emergency vehicle or which tends to blind or distract an approaching motorist or shine directly into any dwelling in any R District.

§ 230-91. Site plans.

A. All proposed new buildings or other improvements shall be constructed according to an approved comprehensive site plan. No building permit shall be issued for any work in connection with the use or structure until the Planning and Zoning Commission shall have reviewed and approved a site plan for said use or structure. The required documents must be submitted to the City Manager at least fifteen (15) days prior to the next regular meeting of the Planning and Zoning Commission.

B. The Planning and Zoning Commission shall review the site plan for compliance with Pocomoke City's Comprehensive Master Plan, this chapter and other applicable regulations. The Planning and Zoning Commission may require changes in the site plan or attach conditions or restrictions to coordinate the proposed development with surrounding properties or improve the protection of the public's health, safety and general welfare.

C. Planning and Zoning Commission approval shall authorize construction only in accordance with the approved site plan. Deviation from the approved site plan or failure to abide by attached restrictions and conditions shall be considered a violation of this chapter.

D. Site plan standards. The following drafting standards and information shall be required on the site plan as appropriate:

(1) Drafting standards. The site plan and all supporting drawings shall be prepared on one (1) or more reproducible sheets eighteen by fourteen (18 x 14) inches in size. The plan may be prepared in any conventional scale, provided that all information is clear and legible. The plan shall contain sufficient detail, labeling and dimensions to be easily understood. All lot dimensions shall be based on actual measurements or deed description.

(2) General data. The plans shall identify the name and address of the property owner and/or applicant and the general location of the property by use of an insert vicinity map, North arrow, scale, date and zoning classification. The plan shall also bear the signatures of the applicant, the property owner or his or her attorney and the person who prepared the site plan.

(3) Layout. The plan shall show all property lines, structures, building entrances, use areas, road access points, vehicular circulation, signs, yard setbacks, drainageways, utility lines, easements, landscaping, exterior lighting, fences, walls and other physical features. Both existing and proposed features shall be shown and labeled as such.

(4) Elevations. The plan shall show typical schematic elevations of the major buildings or structures and of any freestanding signs. The elevations shall indicate the type of construction and basic exterior materials and color treatment.

(5) Relationship to abutting roads and properties. The plan shall show the location of abutting roads, structures, use areas, parking lots, fences, walls, signs and other significant physical features within one hundred (100) feet of the property line.

(6) General description. Accompanying the site plan shall be a written description of the project and its intended use or operation. Such description shall be typed on sheets eight and one-half by eleven (8 1/2 x 11) inches in size.

(7) Other data.

(a) The Planning and Zoning Commission may require such data, drawings or documentation as it deems necessary to adequately review the application for compliance with the intent and provisions of this chapter.

(b) Waiver. The Planning and Zoning Commission may, at its discretion, waive or modify the requirement that the site plan show all property lines when such lines are not necessary to conduct an adequate review of the application.

E. The Worcester County Forest Conservation Law[10] shall apply to all comprehensive site plans required to be submitted by this section which involve the development of an area of forty thousand (40,000) square feet or greater.

F. The Worcester County Critical Area Plan shall apply to all Comprehensive Site Plans required to be submitted by this Section 230-91 which involve the development in the area of the City located north of State Route 756, east of Route 113 Bypass annexed by Resolution 270.

ARTICLE XIV Exceptions and Modifications

§ 230-92. Applicability.

The regulations specified in this chapter shall be subject to the exceptions, modifications and interpretations contained in this Article.

§ 230-93. Height regulations.

The building height limitations of this chapter shall not apply to:

A. Fire or parapet walls, cupolas, steeples, flagpoles, smokestacks, masts, water tanks or other roof superstructures.

B. Monitors, scenery lofts, penthouses or roof structures for housing elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building.

C. Monuments, fire towers, hose towers, cooling towers, gas holders, or utility poles which apply to essential services.

D. Churches, schools, institutional buildings, public utility buildings and structures, not including towers, not less than two hundred (200) feet distant from any R District, provided that for each three (3) feet by which the height of such building or structure

[10] Editor's Note: See Ch. 137, Forest Conservation.

exceeds the maximum height otherwise permitted in the district, its side and rear yard shall be increased in width and depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.

E. Any other building, tower, or structure not listed in these height regulations shall need the approval of the Board of Zoning Appeals.

§ 230-94. Existing lots of record.

In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of this chapter and in separate ownership from any adjacent lot, irrespective of its area or width or the width of the street on which it fronts, subject to the following requirements:

A. The sum of the side yard widths on any such lot or plot must be thirty percent (30%) of the width of the lot, but in no case shall any one (1) side yard be less than ten percent (10%) of the width of the lot.

B. The depth of the rear yard on any such lot must be thirty percent (30%) of the depth of the lot, but in no case shall it be less than fifteen (15) feet.

§ 230-95. Lot area.

A. Any lot or other premises not connected to the public water and sewer systems shall be subject to the following minimum lot requirements in all districts, unless a greater requirement is specified elsewhere in this chapter:

Type of Connection	Lot Area (square feet)	Lot Width (feet)
Public sewer connection only	10,000	80
Public water connection only	15,000	100
Not connected to either	20,000	100

B. No lot shall have a chemical toilet or other toilet of any kind not connected either to the public sewer system or to a private disposal facility approved by the proper health authorities, except where installed temporarily for use in connection with a construction project.

§ 230-96. Front yards.

Where a building is to be located between two (2) existing principal buildings in the same block front and within two hundred (200) feet of them, the front yard requirement for the proposed building shall be the average of those provided by the two (2) existing buildings. The forward most wall of the proposed building shall be located at the front yard line so established. In the case of a corner lot, the proposed building shall be set in line with the building next adjoining and within two hundred (200) feet. In either case, however, no front yard shall be less than fifteen (15) feet in any R District or ten (10) feet elsewhere.

§ 230-97. Through lots.

Buildings on lots extending through from street to street shall provide the required front yard on both streets but need not provide the required rear yard in the case where an equivalent open space is provided in lieu of such required rear yard.

§ 230-98. Rear and side yards.

A. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, one-half (1/2) of the alley width may be included as a portion of the rear or side yard, as the case may be.

B. Each side yard shall be increased in width by two (2) inches in any R District for each foot by which the length of the side wall of the building, adjacent to the side yard, exceeds forty (40) feet.

C. The side yard width may be varied where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half (1/2) the otherwise required least width or narrower than three (3) feet in any case.

D. Where a corner lot rears upon the side of another lot in an R District, either directly or across an alley, the side yard on the street side of the corner lot shall have a width equal to not less than one-half (1/2) the required depth of the front yard on the lot in the rear.

§ 230-99. Other exceptions to yard requirements.

A. The following architectural features may project into required yards or courts as hereinafter set forth:

(1) Into any required front yard, rear yard, outer court or required side yard adjoining a side street lot line:

(a) Cornices, eaves or other architectural features may project a distance not exceeding two (2) feet.

(b) Fire escapes may project a distance not exceeding four (4) feet.

(c) An uncovered stair and necessary landings may be a distance not to exceed four (4) feet.

(d) Bay windows, balconies and chimneys may project a distance not exceeding three (3) feet, provided that such features do not occupy in the aggregate more than one third (1/3) of the length of the wall on which they are located.

(2) Subject to the conditions specified above, the above named features may project into any required side yard adjoining an interior side lot line a distance not to exceed one fifth (1/5) of the width of such side yard, but not to exceed four (4) feet in any case.

B. Fences, walls and hedges may be located in required yards or courts, subject to the limitation in Article IV and the following:

(1) Fences, walls or hedges not exceeding at any point four (4) feet in height above the elevation of the ground at such point may be located in any yard or court, except that on a corner lot no such fence, wall or hedge may be located in the front yard exceeding two and one-half (2 1/2) feet in height above the elevation of the ground.

(2) Fences and walls not exceeding at any point six (6) feet in height above the elevation of the ground at such point may be located in any rear yard or side yard area, provided that on a reversed corner lot no such fence, wall or hedge shall be closer to the side street lot line, within twenty-five (25) feet of the side lot line of an adjoining lot to the rear, than a distance equal to the least depth of the front yard required for a one story building on such adjoining lot.

ARTICLE XV Administration and Enforcement

§ 230-100. Zoning Inspector; licenses and permits.

A. The office of Zoning Inspector is hereby established. The City Manager or his or her designee shall serve as Zoning Inspector. The Mayor and Council, at their discretion, may arrange for the sharing of a Zoning Inspector with Worcester County or with another municipality in the county, provided that such Inspector shall be responsible to the City Manager for any zoning certificate issued or action taken with respect to the administration and enforcement of this chapter.

B. It shall be the duty of the Zoning Inspector to administer and cause the enforcement of the provisions of this chapter in accordance with its administrative provisions. All municipal officials and employees who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter and shall issue no permit or license for any use, building or purpose if the same would be in conflict with the provisions of this chapter. Any permit or license issued in conflict with the provisions of this chapter shall be null and void.

§ 230-101. Zoning certificates and building permits.[11]

A. Except as otherwise provided herein, it shall be unlawful to locate, erect or begin the construction, reconstruction, extension, conversion or structural alteration of any building or structure or to begin the excavation there for or the construction of a well or sewage disposal system, other than the reconstruction, replacement or extension of any existing well or sewage disposal system, without first applying for a zoning certificate there for. Likewise, it shall be unlawful to use or permit the use of any building or land or part thereof hereafter created or erected, wholly or partly, or to change the use or permit the change of use of any building, structure or land until a zoning certificate (together with special use permit, where required) shall have been issued by the Zoning Inspector. Such zoning certificate shall show that the building or other structure or part thereof and the proposed use thereof, or the proposed use of the land or premises, conform to the provisions of this chapter. It shall be the duty of the Zoning Inspector to issue such zoning certificate if he or she finds to his or her satisfaction that the building, structure, premises and proposed use thereof conform to all the requirements herein set forth.

B. Application for a zoning certificate shall be made to the Zoning Inspector coincident with the application for a building permit where such is required. Every application for a zoning certificate, whether in connection with a building permit or not, shall be accompanied by a drawing approximately to scale showing the shape and dimensions of the lot to be used or built upon, the size and location on the lot of every existing building and structure and its driveways, the existing and intended use of the premises and of each building or part thereof and such other information with regard to the lot and its

[11] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

neighboring lots, buildings and uses as may be necessary to determine and provide for the administration and enforcement of this chapter.

C. Issuance of a zoning certificate shall be withheld until the building or the necessary work thereon has been completed in accordance with the provisions of this chapter. No work shall be commenced, however, before the issuance of a building permit there for showing that application has been made for a zoning certificate and that the building or part thereof and the proposed use thereof conform to the provisions of this chapter. No construction work shall be started before the lot and the location thereon of the projected building or other improvements have been staked out on the ground and have been inspected by the Zoning Inspector.

D. A building permit issued in accordance with the provisions of this chapter shall become void twelve (12) months after the date of its issuance if the construction for which it was issued has not been started or has been substantially discontinued. Once the permit becomes void, reapplication must be made.

E. Upon written request from the owner or tenant, the Zoning Inspector shall issue a zoning certificate for any building or premises lawfully existing at the time of enactment of this chapter certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this chapter. Application for such certificate shall be made within twelve (12) months after the date of enactment of this chapter.

F. A filing fee shall accompany each application for a zoning certificate, in such amount as may be determined by the Mayor and Council.

§ 230-102. Violations and penalties.

A. It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation in or any provision of this chapter or any amendment or supplement thereto, or to fail to comply with any reasonable requirement or condition imposed by the Board of Appeals. Any person, firm or corporation violating the provisions of this chapter or of any amendment or supplement thereto shall be guilty of a misdemeanor and shall be punished as provided in the general penalty provisions of § 1-18 of this Code. Each day of failure to comply with any provision shall constitute a separate violation.[12]

B. All zoning certificates and building permits shall be revocable for failure to comply with all applicable requirements and conditions.

§ 230-103. Additional remedies.

In case any building is or is proposed to be located, erected, constructed, reconstructed, altered, repaired, converted, maintained or used or any land is or is proposed to be used in violation of this chapter or any amendment or supplement thereto, the Mayor and Council, the Zoning Inspector or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, restrain, correct or abate such unlawful location, maintenance or use, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business or use in or about such premises.

[12] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE XVI Board of Appeals

§ 230-104. Appointment; terms of office; vacancies; powers and duties; qualifications.[13]

In compliance with the provisions of § 4.07 of Article 66B of the Annotated Code of Maryland, as amended, a Board of Appeals is hereby established. The appointment, terms of office, succession, removal, filing of vacancies and the powers and duties of the members of the Board shall all be as provided in said Article; provided, however, that the persons appointed to the Board of Appeals shall be selected for their understanding of and appreciation for zoning principles, knowledge of conditions in the community and of its planning objectives and policies, general civic interest, as opposed to special or private interest, and a fair judicial approach. The Board of Appeals shall consist of five (5) members and one (1) alternate and one (1) temporary alternate as may be designated by the Mayor and Council.

§ 230-105. Organization; records; assistance.

A. The Board shall be organized in accordance with the provisions of this chapter. Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. The Chair or, in his or her absence, the acting Chair may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the Board and shall be a public record.

B. The Board may call upon any city official or department head for assistance in the performance of its duties, and it shall be the duty of such officers to render such assistance to the Board as may reasonably be required.

C. It shall be the duty of the Zoning Inspector or designee to serve as Secretary and administrative officer for the Board of Appeals. One (1) of his or her duties shall be to investigate each case and prepare a report thereon for the information and assistance of the Board.

§ 230-106. Appeals.

A. Application, when and by whom taken. An application, in cases in which the Board has original jurisdiction under the provisions of this chapter, may be made by any property owner or contract purchaser or by a governmental officer, department, board or bureau. Such application shall be filed with the Zoning Inspector, who shall transmit the same to the Board.

B. Appeals, when and by whom taken. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days from the date of the written decision by filing with the Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

C. Fees. A nonrefundable filing fee shall accompany each application or appeal to the Board, as may be determined by the Mayor and Council.

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[13] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

D. Hearings. The Board shall fix a reasonable time for the hearing of the application or appeal, shall give at least ten (10) days' notice of the time and place of such hearing in a newspaper of general circulation in the community and to the parties in interest, shall cause the property to be posted conspicuously with a notice of the hearing and shall decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

E. Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board, after notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board or by a court of record, on application, after notice to the Zoning Inspector and on due cause shown.

F. Action of the Board. In exercising its powers, the Board may, in conformity with the provisions of statute and of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

G. Repeated applications. If an application or appeal is disapproved by the Board of Appeals, thereafter the Board shall not be required to consider another application for substantially the same proposal on the same premises until after one (1) year from the date of such disapproval. If an appeal to the Board is perfected and the public hearing advertised and thereafter the applicant withdraws the application or appeal, he or she shall be precluded from filing another application or appeal for substantially the same proposal on the same premises for one (1) year.

H. Court review. Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or any taxpayer, officer, department, board or bureau of the city may appeal the same to the Circuit Court for Worcester County. If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Appeals from such determinations may be taken to the Court of Appeals as provided by law.

§ 230-107. Powers and duties of Board of Appeals.

A. Administrative errors. The Board of Appeals shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

B. Interpretation and adjustment of Zoning Map and district lines.[14] The Board may determine, after notice to the owners of the properties affected and after public hearing, boundaries of districts as follows:

(1) Where the street or lot layout actually on the ground or as recorded differs from the street or lot lines shown on the Zoning Map, the Board shall interpret the map

[14] Editor's Note: The Zoning Map is on file in the office of the Zoning Inspector.

in such a way as to carry out the intent and purpose of this chapter for the particular section or district in question.

(2) Where the boundary line of a district divides a lot held in a single ownership on the effective date of this chapter, the Board may permit the extension of a district, but not more than two hundred (200) feet beyond said boundary line.

C. Temporary uses. The Board may authorize the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this chapter for the district in which it is located, provided that such use is of a temporary nature and does not involve the erection of substantial buildings. Such certificate shall be granted in the form of a temporary and revocable permit for not more than a twelve-month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

D. Conditional uses and special exceptions.

(1) The Board shall have the power to hear and decide applications for conditional uses or for decisions upon other special questions on which the Board is authorized by this chapter to pass. All such applications shall be deemed to be for special exceptions authorized by § 4.07 of Article 66B of the Annotated Code of Maryland.[15]

(2) In addition to permitting the conditional uses and exceptions hereinbefore specified, the Board shall have the power to permit the following conditional uses and special exceptions:

(a) A business use in any R District next to a nonconforming business or industrial use or between two (2) such uses.

(b) On a lot adjoining or in a building adjoining any nonconforming use, a use of the next higher classification.

(c) Within any district, the disposal of wastes by the sanitary landfill method.

(d) A sewage disposal plant in any district, when such location is necessary and unavoidable, and provided that all reasonable protection is afforded to adjacent properties by means of location, design, screening or otherwise.

(e) A business use in any R District, on a lot that adjoins an M District on one (1) side, but not extending more than one hundred (100) feet from the district line.

(3) In considering an application for a conditional use or other exception, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and in authorizing any such use or exception the Board may impose such requirements and conditions as to location, construction, equipment, operation and maintenance, in addition to those expressly stipulated in this chapter for the particular use or exception, as the Board may deem necessary to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise or similar nuisances, and it may impose such other conditions and requirements as may be necessary in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become obnoxious or

[15] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

offensive. In authorizing a conditional use or exception, subject to compliance with certain conditions, the Board may require from the owners, lessees or tenants of the property for which the conditional use or exception is granted such evidence, written agreement, guaranty or bond as it may deem necessary to ensure that the conditions stipulated by the Board are being and will be complied with. Any such written agreement may be required by the Board to be recorded among the land records of Worcester County at the expense of the applicant.

E. Nonconforming uses. The Board may authorize the issuance of a zoning certificate, after public hearing, for any of the following:

(1) The substitution for a nonconforming use of another nonconforming use if no structural alterations are made except those required by law or regulation; provided, however, that in an R or B District no change shall be permitted to any use prohibited in an M-1 District.

(2) The extension of a building devoted to a nonconforming use or the construction of additional buildings or the extension of a nonconforming use of land where any such extension is necessary and incidental to the continuation of the existing use but is not authorized by § 230-15C(1). No such extension or addition shall be deemed to extend or otherwise affect the date when such nonconforming use or building must be changed or removed, if subject to any of the provisions of § 230-15B.

F. Variances. Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this chapter or by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property or of the use or development of property immediately adjoining the piece in question, the literal enforcement of the requirements of this chapter would involve practical difficulty or would cause unnecessary hardship, unnecessary to carry out the spirit and purpose of this chapter, the Board shall have the power, upon appeal in specific cases, filed as hereinbefore provided, to authorize such variance from the terms of this chapter as will relieve such hardship so that the spirit and purpose of this chapter shall be observed and substantial justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of this chapter and in the public interest. In authorizing a variance, with attached conditions, the Board may require such evidence and guaranty or bond as it may deem necessary that the conditions attached are being and will be complied with.

(1) No such variance in the provisions or requirements of this chapter shall be authorized by the Board unless the Board finds, beyond reasonable doubt that all the following facts and conditions exist:

(a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning district.

(b) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.

(c) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of this chapter or the public interest.

(2) No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property, or the intended use of said property, for which variance is sought, one or the other or in combination, is not of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such condition or situation, to be adopted by the Mayor and Council as an amendment to this chapter.

§ 230-108. Guidelines for decisions by the Board.

Where in this chapter certain powers are conferred upon the Board of Appeals or the approval of the Board of Appeals is required before a permit may be issued or the Board is called upon to decide certain issues, such Board shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing and consider all testimony and data submitted, and it shall hear any person for or against the issuance of the permit. However, the application for permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare or would result in dangerous traffic conditions or would jeopardize the lives or property of other people in the neighborhood. In deciding such matters, the Board shall give consideration, among other things, to the following:

A. The purpose, application, interpretation and standards of these regulations as set forth in Article I.

B. Decisions of the Circuit Court for Worcester County and the Court of Appeals of Maryland.

C. The orderly growth and improvement of the neighborhood and community.

D. The most appropriate use of land and structures in accordance with a comprehensive plan.

E. Facilities for sewers, water, schools, traffic, transportation and other services and the ability of the city or other public agency to supply such services.

F. The limitation of fire-fighting and rescue equipment and the means of access for fire and police protection.

G. The probable effect of such use upon the peaceful enjoyment of people in their homes.

H. The number of people residing, working or studying in the immediate vicinity.

I. The type, character and use of structures in the vicinity, especially where people are apt to gather in large numbers, such as in schools, churches, theaters and the like.

J. Traffic conditions, including facilities for pedestrians, such as sidewalks and safety zones, and parking facilities available and the access of cars to highways.

K. The preservation of cultural and historic landmarks.

L. The conservation of property values.

M. The probable effect of odors, dust, gas, smoke, fumes, vibration, glare or noise upon the uses of surrounding properties.

N. The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.

§ 230-109. Effect of approval.

Where the Board approves an exception, variance or other application or appeal under these regulations, such approval shall not change the use classification of the building or premises nor give it any status as a nonconforming use other than it may already have had nor qualify any adjacent property for any special treatment, such as an exception or variance, nor shall there be another change of use without approval of the Board.

ARTICLE XVII District Changes and Other Amendments

§ 230-110. Amendments authorized.

A. Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Mayor and Council may, by ordinance, after recommendation by the Planning and Zoning Commission and subject to the procedure set forth in this Article, amend, supplement or change the regulations, district boundaries or classifications of property now or hereafter established by this chapter or amendments thereof. Such amendment, supplement or change may be initiated by resolution of the Mayor and Council, by motion of the Planning and Zoning Commission or by petition of any property owner or contract purchaser addressed to the Mayor and Council.

B. The Mayor and Council hereby express their recognition of the fact that sections of the community are changing from a rural to a residential, commercial, industrial or other character, and, although an attempt has been made in the Land Use Plan to anticipate and direct such growth along desirable lines, it is inevitable that no such plan can be perfect or everlastingly valid. They anticipate, therefore, that the Land Use Plan will need amending from time to time as contemplated and authorized by § 4.05 of Article 66B of the Annotated Code of Maryland, and that the Zoning Map must also be amended from time to time in order that it may continue to be in conformity with such Comprehensive Plan, as required by §§ 3.05 through 3.09 of said Article 66B.[16]

§ 230-111. Amendment procedure.[17]

A. Any proposed amendment, supplement or change originating with or received by the Mayor and Council shall first be referred to the Planning and Zoning Commission for investigation and recommendation. The Planning and Zoning Commission shall cause such investigation to be made as it deems necessary and for this purpose may require the submission of pertinent data and information by any person concerned, may hold such public hearings as are provided by its own rules and shall submit its report and recommendation within sixty (60) days, unless an extension of time is granted.

B. After receiving the recommendation of the Planning and Zoning Commission on any proposed amendment, supplement or change and before adopting such amendment, the Mayor and Council shall hold a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing and a summary of the proposed change shall be published in a newspaper

[16] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

[17] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

of general circulation in the community once each week for two (2) successive weeks, with the first such publication of notice appearing at least fourteen (14) days prior to the hearing. If the purpose of the proposed ordinance is to change the classification or boundary of any specific individual property, the property so affected shall be posted with a notice of the hearing. The property owner will be notified of the proposed change by mail by the City Clerk. The change shall not become effective until ten (10) days after the public hearing.

C. No substantial change in or departure from the proposed amendment as recommended by the Planning and Zoning Commission shall be made unless the same shall be resubmitted to said Commission for its further recommendation.

D. A nonrefundable filing fee shall be charged for processing an application for a change in zoning, as may be determined by the Mayor and Council.

E. Every application for a change in zoning district boundaries shall be accompanied by a plat, drawn to such scale as the Zoning Inspector shall require, showing the existing and proposed boundaries and such other information as he or she may need to enable him or her to properly locate and plot the amendment on the official Zoning Map. It shall be the duty of the Zoning Inspector to change the official Zoning Map promptly upon the adoption of any amendment so that there will always be an up-to-date public record of the zoning districts.[18]

[18] Editor's Note: The Zoning Map is on file in the office of the Zoning Inspector.

Chapter A234

CABLE TELEVISION FRANCHISE

§ A234-1. Franchise granted; terms and conditions.

§ A234-2. Franchise fee; statement of gross receipts.

§ A234-3. When effective.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 7-10-1995 as Ord. No. 330. Amendments noted where applicable.]

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§ A234-1. Franchise granted; terms and conditions.

The Mayor and Council of Pocomoke City does hereby grant unto Comcast Cablevision of Delmarva, Inc., a Delaware corporation, as aforesaid, hereinafter called the "grantee," its successors and assigns the right, privilege and franchise to construct, maintain and operate, within the corporate limits of Pocomoke City, Maryland, as presently constituted and as the same may be subsequently enlarged, a cable communications system, and its necessary facilities and additions thereto, for the transmission and distribution, by cable and other equipment, of broadband audio, video, voice and data impulses and energy in, over, under, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in said town, subject to the following terms and conditions:

A. The poles and posts used for the grantee's transmission system shall be erected by the grantee and/or those erected and maintained by the Chesapeake and Potomac Telephone Company and/or Delmarva Power and Light Company and/or such other person, firm or corporation who or which at the time may be maintaining poles or posts within the corporate limits of Pocomoke City, when and where practicable, provided that mutually satisfactory rental agreements can be entered into with such companies.

B. The grantee's transmission and distribution system, poles, wires and appurtenances shall be located, erected and maintained so that none of it or them shall endanger the lives of persons or interfere with any improvements the Mayor and Council may deem proper to make or hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public property in said town.

C. In the maintenance and operation of its cable communications system in the streets, alleys and other public places and in the course of any new construction or addition to its facilities, the grantee shall proceed with due regard for the inconvenience of the general public. Whenever the grantee shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley or other public place, the same shall be replaced and the surface restored in as good condition as before entry. The grantee shall at all times comply with any and all rules and regulations which the Mayor and Council has made or may make applying to the public generally with reference to excavations in streets and other public places not inconsistent with their use for the purposes contemplated by said franchise.

D. The grantee shall indemnify and hold the Mayor and Council of Pocomoke City harmless at all times during the term of said franchise from against all claims for injury or damages to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment, appliance or products authorized by the grantee or use pursuant to authority of said franchise.

E. Service to educational institutions; list of officers and shareholders; operation and maintenance.

(1) The grantee shall, upon reasonable request of the Worcester County Board of Education and at such time as such service shall become reasonable and practical and available to its equipment, after installation of the complete transmission system, furnish basic cable service to all public schools and public educational institutions within Pocomoke City, without installation charge or monthly service charge of any kind; provided, however, that the grantee shall not be required to furnish any installation beyond the property line of any such school property or within any school building.

(2) The grantee shall file, upon request, with the Mayor and Council of Pocomoke City, on or before the regular December meeting date of said Mayor and Council in any year during the continuance of this franchise, a full and complete list of all of its officers and shareholders.

(3) The grantee shall operate and maintain the cable communications system in accordance with the rules and regulations promulgated by the Federal Communications Commission (FCC) and shall provide cable service in the area covered by this franchise.

F. Unless the same shall be sooner and lawfully revoked pursuant to the terms of this ordinance, the franchise hereby granted to the grantee shall take effect upon being accepted by the grantee, its successors or assigns and shall thereupon be and remain in force until January 1, 2007, and after that date shall automatically renew itself for one (1) additional five-year period unless the Council of Pocomoke City or the grantee, its successors and assigns shall notify the other, not less than thirty-three (33) months prior to the expiration of said franchise or any renewal thereof, of its intention not to automatically renew the same.

G. The grantee shall provide service in accordance with FCC standards having due regard to atmospheric conditions, war, acts of God, unavoidable catastrophes and national emergencies. Should the grantee fail or refuse to transmit such service to its subscribers, the Mayor and Council may terminate this franchise by written notice to the grantee, if the grantee shall fail or refuse to correct such service, by methods available to it, within sixty (60) days after being notified, in writing, by the Mayor and Council of such failure to comply with FCC standards; provided, however, that no such action may be taken except at a public meeting of the City Council of which the grantee has been apprised and at which the grantee may present evidence in its behalf.

§ A234-2. Franchise fee; statement of gross receipts.

A. The grantee shall pay to the Mayor and Council of Pocomoke City, on a quarterly basis, a franchise fee calculated at the rate of five percent (5%) (or such other maximum amount allowed by federal law and mutually agreed upon by the grantor and grantee) of the grantee's gross receipts for the previous quarter, derived from all cable service (including premium channels), installation fees and additional outlets within the city limits. Said franchise fee shall be paid within thirty (30) days of the end of the quarter.

B. In addition, the grantee shall provide to the Mayor and Council of Pocomoke City, by March 31 of each year, a statement of gross subscriber receipts and subscriber count for the previous calendar year, certified by a duly authorized officer of the grantee, which indicates the gross receipts received per month from all cable service (including premium channels), installation fees and additional outlets within the city limits.

§ A234-3. When effective.

This ordinance shall take effect from the date of its passage.

Chapter A235

FOREST CONSERVATION

§ NR 1-401. Purpose; intent; applicability.
§ NR 1-402. Definitions.
§ NR 1-403. Applicability.
§ NR 1-404. General requirements.
§ NR 1-405. Simplified forest stand delineation and forest conservation plan for minor subdivisions.
§ NR 1-406. Forest stand delineation.
§ NR 1-407. Forest conservation plan.
§ NR 1-408. Afforestation.
§ NR 1-409. Retention.
§ NR 1-410. Reforestation.
§ NR 1-411. On-site afforestation or
§ NR 1-412. Off-site afforestation or reforestation.
§ NR 1-413. Payment in lieu of afforestation and reforestation.
§ NR 1-414. Standards for reforestation and afforestation.
§ NR 1-415. Bonding and protective agreements.
§ NR 1-416. Adjustments and exceptions.
§ NR 1-417. Inspections.
§ NR 1-418. Enforcement and penalties.
§ NR 1-419. Appeal of decision.
§ NR 1-420. Amendments to this Subtitle
§ NR 1-421. Worcester County Forest Conservation Manual.

This chapter contains a copy of the Natural Resources Article of the Code of Public Local Laws of Worcester County, Subtitle IV, Forest Conservation, adopted 6-14-1994 as Bill No. 94-8. Subsequent amendments are noted where applicable.

§ NR 1-401. Purpose; intent; applicability. [Amended 5-30-1995 by Bill No. 95-9]

(a) Purpose and intent. Forests and individual trees greatly contribute to the quality of life in Worcester County and the health of its natural ecosystems. The purpose of this Subtitle is to provide for the preservation of existing trees and forest areas and the planting of trees and the establishment of new forest areas where appropriate in conjunction with land development activities within Worcester County. In addition, this Subtitle is intended to protect and preserve the forest products industry in Worcester County. This Subtitle complies with the requirements of the State Forest Conservation Act[1].

(b) Applicability. This Subtitle shall apply only in the unincorporated areas of the county. The provisions of this Subtitle shall not apply within the corporate limits of any municipality within the county, provided that any such municipality may, by ordinance or resolution duly adopted by its governing body, adopt this Subtitle

[1] Editor's Note: See the Natural Resources Article of the Annotated Code of Maryland, Title 5, Subtitle 16.

as enforceable within such corporate limits and request that it be enforced therein. In such event, the County Commissioners may, by resolution, approve such action of the municipality and this Subtitle shall be in full force and effect within such municipality. Such ordinance or resolution by the municipality may include amendments to the Worcester County Forest Conservation Law, provided that such amendments are approved by the Maryland Department of Natural Resources and the County Commissioners of Worcester County, Maryland.

§ NR 1-402. Definitions.

The terms "major subdivision," "minor subdivision," "nontidal wetland," "tidal wetland" and "stream" shall be as defined in the Worcester County Zoning and Subdivision Control Article. In addition, the following definitions shall apply:

AFFORESTATION -- The establishment of a forest on an area on which forest cover has been absent; or planting of open areas which are not presently in forest cover; or the establishment of a forest according to procedures set forth in the Worcester County Forest Conservation Manual.

AGRICULTURAL ACTIVITY -- Farming activities, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery and other products cultivated as part of a commercial agricultural enterprise.

APPROVED TIMBER MANAGEMENT PLAN -- A document approved by the Maryland Department of Natural Resources and which operates as a protective agreement for forest conservation as described in ~ NR 1-415(g) herein.

AQUACULTURE ACTIVITIES -- The use of land and structures for the farming, hatching, cultivating, planting, feeding, raising, shedding, harvesting and culturing of finfish, shellfish, crustaceans, mollusks, amphibians, reptiles, other aquatic plants or animals, or both, in lakes, streams, inlets estuaries, ponds and other natural, artificial or man-made, enclosed or impounded ponds, waterbodies or water containing structures. Cultivation methods include, but are not limited to, seed or larvae development and growout facilities, fish pens, shellfish floats or rafts, racks and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas.

BREAK EVEN POINT -- The point at which the forest conservation requirements can be met solely through forest retention and no reforestation. [Added 8-8-1995 by Bill No. 95-8]

CHAMPION TREE -- The largest tree of its species within the State of Maryland as set forth in the Worcester County Forest Conservation Manual.

COMMERCIAL LOGGING OR TIMBER HARVESTING OPERATIONS -- The cutting and removing of trees from a site for commercial purposes, leaving the root mass intact.

CRITICAL HABITAT AREA -- A critical habitat for endangered species and its surrounding protection area. In order to be considered a critical habitat area, such area shall be likely to contribute to the long-term survival of the species; and, be likely to be occupied by the species for the foreseeable future; and, constitute habitat of the species which is deemed critical under state law and as appears in the Worcester County Forest Conservation Manual.

CRITICAL HABITAT FOR ENDANGERED SPECIES -- A habitat occupied by an endangered species as determined or listed under state law and as appears in the Worcester County Forest Conservation Manual.

DEPARTMENT -- The department designated by the County Commissioners to administer and enforce the local forest conservation program.

DEVELOPMENT -- The establishment of a principal use of a site; a change in a principal use of a site; or the improvement or alteration of a site by the construction, enlargement or relocation of a structure; the provision of stormwater management or roads; the grading of existing topography; the clearing or grubbing of existing vegetation; or any other nonagricultural activity that results in a change in existing site conditions.

DEVELOPMENT PROJECT -- The grading or construction activities occurring on areas of forty thousand square feet or greater, including any redevelopment.

FOREST -- A biological community dominated by trees covering a land area of ten thousand square feet or greater. The term "forest"shall include areas that have at least one hundred trees per acre with at least fifty percent of those trees having a two-inch or greater diameter at four and a half feet above the ground and larger; and forest areas that have been cut but not cleared. The term forest shall not include orchards.

FOREST CONSERVATION MANUAL -- The Worcester County Forest Conservation Manual as provided for in ~ NR 1-421 herein.

FOREST CONSERVATION PLAN -- A plan approved pursuant to ~ NR 1-407 herein.

FOREST STAND DELINEATION -- The methodology for evaluating the existing vegetation on a site proposed for development, as provided in the Worcester County Forest Conservation Manual.

GROWING SEASON -- For purposes of these regulations, growing season shall be defined as that period beginning on April 1 and ending on November 1 of any given calendar year.

MUNICIPALITY -- A municipal corporation.

NET TRACT AREA -- In all zoning districts except the A-1 and C-1 Districts as defined in the Worcester County Zoning and Subdivision Control Article, the net tract area shall be the total area of a site, including both forested and unforested areas, to the nearest one-tenth acre, reduced by the area of tidal wetlands and existing waterbodies. In the A-1 and C-1 Zoning Districts as defined in the

Worcester County Zoning and Subdivision Control Article, the net tract area shall be the portion of the total subject area for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by the area of tidal wetlands and existing waterbodies.

QUALIFIED PROFESSIONAL -- A person who meets the requirements as set forth in the Worcester County Forest Conservation Manual.

REFORESTATION or REFORESTED -- The creation of a biological community dominated by trees containing at least one hundred trees per acre with at least fifty percent of those trees having the potential of attaining a two-inch or greater diameter measured at four and a half feet above the ground, within seven years. Reforestation includes landscaping of areas under an approved landscaping plan that establishes a forest that is at least thirty five feet wide and covering two thousand five hundred square feet of area.

STREAM BUFFER -- All lands lying within fifty feet, measured from the top of each bank of any perennial or intermittent stream.

SUBJECT AREA -- Property or unit of land subject to an application for a grading or sediment control permit, subdivision approval, site plan approval, or areas subject to this Subtitle.

TREE -- A large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least twenty feet at maturity.

WATERSHED -- All land lying within an area described as a sub-basin in water quality regulations as defined in the Worcester County Forest Conservation Manual.

WOODLOT MANAGEMENT -- The control of undesirable species through fire, chemical, mowing or other methods while maintaining the basic criteria or definition of a forest as specified herein.

§ NR 1-403. Applicability.

(a) Regulated activities. Except as provided in Subsection (b) of this section, this Subtitle shall apply to any public or private subdivision plan or application for site plan approval, or grading or sediment control permit by any person, including a unit of state or local government on areas forty thousand square feet or greater.

(b) Exempted activities. This Subtitle does not apply to:

(1) Highway construction activities by a government or by any other person who uses state funding for highway construction and in compliance with the provisions of state law requiring reforestation for such activities.

(2) Activities in areas governed by the Chesapeake Bay Critical Area Protection Law.

(3) Commercial logging and timber harvesting operations, including harvesting conducted subject to the state forest conservation and management program as established in the Tax-Property Article, Annotated Code of Maryland, that are completed:

A. Before July 1, 1991; or

B. After July 1, 1991, on property which:

1. Has not been the subject of application for a grading permit for development within five years after the logging or harvesting operation; and

2. Is the subject of a declaration of intent as provided for in § NR 1-403(c) herein, approved by the department.

(4) Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing forty thousand square feet or greater of forest within a one-year period may not receive an agricultural exemption, unless the person files a declaration of intent as provided for in ~ NR 1-403(c) herein which includes a statement that the landowner or landowner's agent will practice agriculture on that portion of the property for five years from the date of the declaration.

(5) The cutting or clearing of public utility rights-of-way licensed under state law or land for electric generating stations licensed under state law, if:

A. Required certificates of public convenience and necessity have been issued in accordance with state law; and

B. Cutting or clearing of the forest is conducted to minimize the loss of forest.

(6) Routine maintenance or emergency repairs of public utility rights-of-way licensed under state law.

(7) Except for a public utility subject to §NR 1-403(b)(6) herein, routine maintenance or emergency repairs of a public utility right-of-way if:

A. The right-of-way existed before the effective date of this Subtitle; or

B. The right-of-way's initial construction was approved under this Subtitle.

(8) An activity conducted on a lot of any size, where such lot is legally existing as of the effective date of this Subtitle, if the activity:

A. Does not result in the cumulative cutting, clearing or grading of more than forty thousand square feet of forest;

B. Does not result in the cutting, clearing or grading of a forest that is subject to the requirements of a previous forest conservation plan approved under this Subtitle; and

C. Is the subject of a declaration of intent filed with the department, as provided for in § NR 1-403(c) herein, stating that the lot will not be the subject of a regulated activity within five years of the cutting, clearing or grading of forest.

(9) An activity, including subdivision, required for the purpose of constructing a dwelling house intended for the use of the owner, or immediate family member of the owner, if the activity:

A. Does not result in the cutting, clearing or grading of more than forty thousand square feet of forest; and

B. Is the subject of a declaration of intent filed with the department, as provided for in § NR 1-403(c) herein, which states that transfer of ownership may result in a loss of exemption.

(10) Surface mining regulated under state law.

(11) An activity conducted pursuant to a preliminary plan of subdivision or a grading or sediment control plan approved before July 1, 1991, or a minor subdivision application for which a Worcester County Application for Residential/Commercial Site/Soil Evaluation was submitted prior to July 1, 1991.

(12) An activity conducted pursuant to a planned unit development that, by December 31, 1991, has obtained initial development plan approval of Step I in accordance with the Worcester County Zoning and Subdivision Control Article.

(13) A subdivision for agricultural purposes only, where the statement "For Agricultural Purposes Only" appears on the plat.

(14) A boundary line adjustment, provided that there is no accompanying change in land use, and a statement to that effect is included on the plat.

(15) A minor or major subdivision where the area of forested nontidal wetland, including any regulated buffer, is greater than or equal to the area of reforestation and afforestation required under §§ NR 1-408 and NR 1-410 herein.

(16) A minor subdivision for conservation purposes where the statement "For Conservation Purposes Only" appears on the plat, and where such new lots are deeded to a legitimate conservation organization upon recordation of the plat.

(17) Any habitat program approved by the United States Soil Conservation Service or its successor, the United States Fish and Wildlife Service, or the Maryland Department of Natural Resources for such habitat program if the activity:

A. Does not result in the cutting, clearing or grading of a forest that is subject to

the requirements of a previous forest conservation plan approved under this Subtitle; and

B. Is the subject of a declaration of intent filed with the department, as provided for in § NR 1-403(c) herein, stating that the lot will not be the subject of a regulated activity within five years of the cutting, clearing or grading of forest.

(18) The construction and maintenance of water and sewage treatment facilities and county landfills by a state, county or municipal governmental body, provided that the cutting or clearing of the forest is conducted to minimize the loss of forest and all forested area cut or cleared over forty thousand square feet in area shall be replaced at a ratio of one acre planted for each one acre removed. Priority areas for such reforestation shall be as established in the Worcester County Forest Conservation Manual.

(19) The construction and maintenance of tax ditches, drainage ditches, water lines, sewer lines, telephone lines, cable television lines, natural gas lines, electrical power lines and other such linear utility lines, provided that the cutting or clearing of the forest is conducted to minimize the loss of forest. In addition, for such construction activities, all forested area cut or cleared over forty thousand square feet in area shall be replaced at a ratio of one acre planted for each one acre removed. Priority areas for such reforestation shall be as established in the Worcester County Forest Conservation Manual.

(20) County road construction activities by the County Commissioners provided that the cutting or clearing of the forest is conducted to minimize the loss of forest, and provided that all forested area cut or cleared over forty thousand square feet in area is replaced at a ratio of one acre planted for each one acre removed. Priority areas for such reforestation shall be as established in the Worcester County Forest Conservation Manual.

(21) Cutting of trees to establish or re-establish property lines or survey control, using accepted field surveying methods, including random traverse and cross-sections for topography, provided that the width of such cutting does not exceed ten feet.

(22) Any activity within the corporate limits of a municipality in Worcester County which is exempted under a Forest Conservation Ordinance adopted by the municipality and accepted by the state, and where the municipality requests administration of its Forest Conservation Program by the department.

(23) A minor subdivision, in the A-1 and C-1 Zoning Districts as defined in the Worcester County Zoning and Subdivision Control Article, to create a lot which contains within its boundaries a building, structure or use of land that required a zoning or building permit and existed as of July 29, 1994, if the subdivision:

A. Does not result in any cutting, clearing or grading of a forest; and

B. Is not a resubdivision of a lot previously subdivided as an exemption pursuant to this subsection. [Added 8-8-1995 by Bill No. 95-8]

(24) The following activity otherwise regulated: Commercial airports, provided that the

cutting or clearing of a forest is conducted to minimize the loss of forest, and provided that all forested area cut or cleared over forty thousand square feet in area is replaced at a ratio of one acre planted for each one acre removed. Priority areas for such reforestation shall be as established in the Worcester County Forest Conservation Manual. [Added 8-8-1995 by Bill No. 95-8]

(c) Declaration of intent.

(1) The purpose of the declaration of intent is to verify that the proposed activity is exempt under this Subtitle.

(2) A person seeking an exemption under Subsection 1-403(b)(3),(4),(8),(9) or (17) herein shall file a declaration of intent with the department.

(3) Such declaration of intent shall be effective for five years.

(4) The existence of a declaration of intent does not preclude another exempted activity on the property subject to a declaration of intent, if the activity:

A. Does not conflict with the purpose of any existing declaration of intent; and

B. Complies with the applicable requirements for an exempted activity.

(5) An applicant may apply for a regulated activity on that area of the property not covered under the declaration of intent if the requirements of this Subtitle are satisfied.

(6) The declaration of intent shall be a condition of the building permit and/or on the sediment and erosion control permit.

(7) Violation of a declaration of intent shall be subject to enforcement actions specified in § NR 1-418.

§ NR 1-404. General requirements.

Unless specifically exempted under the provisions of §NR 1-403(b) herein, a person making application after the effective date of this Subtitle for subdivision or site plan approval, a grading permit, or a sediment control permit for an area of land of forty thousand square feet or greater shall submit to the department a forest stand delineation and a forest conservation plan for the subject area on which the development is located. In addition, such plan shall incorporate methods approved by the department, as provided in the Worcester County Forest Conservation Manual, to protect retained forests and trees during construction.

§ NR 1-405. Simplified forest stand delineation and forest conservation plan for minor subdivisions.

(a) Generally. In the case of a minor subdivision not exempted under the provisions of § NR 1-403(b), a simplified forest stand delineation and forest conservation plan which demonstrates compliance with at least the minimum requirements for reforestation and afforestation shall be submitted.

(b) Preparation. The simplified forest stand delineation and forest conservation plan shall be

prepared by a licensed surveyor, licensed forester, licensed landscape architect or other qualified professional.

(c) General requirements. A simplified forest stand delineation and forest conservation plan shall:

(1) Be submitted with the minor subdivision plat application and shall be incorporated within the minor subdivision plat.

(2) Include on the subdivision plat a delineation of the area of existing forest within the proposed subdivision.

(3) Show the planned limits of disturbance.

(4) Include a table that lists, in approximate square feet:

A. The net tract area;

B. The total existing forest area;

C. The area of forest conservation required; and

D. The total area of forest conservation that the applicant proposes to provide, including both on-site and, if applicable, off-site areas.

(5) Include a clear graphic indication of the forest conservation to be provided on the site, showing areas where retention of existing forest, reforestation or afforestation is planned.

(6) If reforestation or afforestation is proposed by natural regeneration, include a clear graphic indication of the area proposed for on-site reforestation or afforestation. Priority areas for such reforestation or afforestation shall be in accordance with the provisions specified in the Forest Conservation Manual.

(7) If reforestation or afforestation is proposed by means other than on-site natural regeneration, include a reforestation or afforestation plan prepared by a licensed forester, licensed landscape architect or other qualified professional. Such plan shall include a clear graphic indication of the area proposed for reforestation or afforestation, a description of the site, site preparation methods, species, size and spacing of planting stock, and any other information required by the Worcester County Forest Conservation Manual. Such plans shall also include a timetable for planting and a schedule for completion to assure that all required afforestation or reforestation occurs as required by ~ NR 1-410 herein.

(8) Incorporate the details of all anticipated perpetual protective agreements to provide protection for areas of forest conservation, including areas of afforestation, reforestation, and retention by means of conservation easements, deed restrictions, covenants, timber management plans, forest conservation and management agreements or other similar devices to provide preservation at all times, as described in the Worcester County Forest Conservation Manual. These restrictions shall be noted on the minor subdivision plat and deeds, and shall be in effect at all times.

(9) Off-site afforestation or reforestation, as established in ~ 1-412 herein or payment to the Forest Conservation Fund, as established in ~ 1-413 herein, in lieu of required afforestation and reforestation shall be acceptable alternatives to such afforestation or reforestation. Such choice of alternative shall be at the discretion of the applicant and shall not require approval of the Board of Zoning Appeals notwithstanding any other provision of this Subtitle. [Amended 8-8-1995 by Bill No. 95-8]

(d) Review procedure. Within fifteen days after receipt of the simplified forest stand delineation and forest conservation plan, the department shall inform the applicant of the results of its review and any required changes. The applicant may submit a revised simplified forest stand delineation and forest conservation plan incorporating required changes.

(e) Approval required prior to recordation. All simplified forest stand delineations and forest conservation plans shall be approved by the department before a minor subdivision plat may be recorded.

(f) Approval required prior to development. If a simplified forest stand delineation and forest conservation plan is required by this Subtitle, a person may not cut, clear or grade until the department has approved the plan.

(g) Plan alterations. The simplified forest conservation plan cannot be altered without approval from the department.

(h) Stop work orders and plan revocations. The department may issue a stop work order or may revoke an approved simplified forest conservation plan if it finds that:

(1) Any provision of the plan has been violated;

(2) Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement or omission of a relevant or material fact;

(3) Changes in the development or in the condition of the site necessitate preparation of a new or amended plan; or

(4) Approval of the simplified forest stand delineation is revoked.

(i) Notice of revocation. Prior to revoking approval of a forest conservation plan, the department shall notify the owner and/or developer in writing and provide an opportunity for a presentation of evidence before the department. A stop work order shall be issued for the site until the issue of revocation has been finally resolved.

§ NR 1-406. Forest stand delineation.

(a) Submission required. A forest stand delineation shall be submitted at the initial stages of subdivision or site plan approval, or before a grading and sediment control permit application is submitted for the subject area being developed.

(b) Preparation. The delineation shall be prepared by a licensed forester, licensed landscape architect or other qualified professional.

(c) Information required. The delineation shall be used during the preliminary review process to

determine the most suitable and practical areas for forest conservation and shall contain the following components for the entire site:

(1) A topographic map delineating the limits of tidal wetlands, intermittent and perennial streams and steep slopes over twenty-five percent;

(2) A soils map delineating soils with structural limitations, hydric soils or soils with a soil K value greater than 0.35 on slopes of fifteen percent or more;

(3) Forest stand maps indicating community groups, location and size of trees and showing dominant and codominant forest types;

(4) Location of one-hundred-year floodplains as shown on the United States Department of Housing and Urban Development, Federal Insurance Administration, Flood Insurance Rate Maps for Worcester County;

(5) Information required by the Worcester County Forest Conservation Manual; and

(6) Other information the department determines is necessary to implement this Subtitle.

(d) Review by department.

(1) Within thirty calendar days after receipt of the forest stand delineation, the department shall notify the applicant whether the forest stand delineation is approved, or whether additional information is required. Upon receipt of such additional information, the department shall have thirty calendar days to approve the forest stand delineation.

(2) If the department fails to notify the applicant within thirty days, the delineation shall be treated as approved.

(3) The department may require further information or provide for an additional fifteen calendar days under extenuating circumstances.

(e) Approval required. A forest stand delineation must be approved by the department. The approved forest stand delineation shall remain in effect for a period of five years.

§ NR 1-407. Forest conservation plan.

(a) Submission required. After approval of the forest stand delineation, a forest conservation plan shall be submitted. Such forest conservation plan shall be submitted with the first of the following applications for development plan approval:

(1) A preliminary subdivision plan;

(2) A site development plan; or

(3) An application for grading or erosion and sediment control approval.

(b) Preparation. The forest conservation plan shall be prepared and signed by a licensed forester, licensed landscape architect or other qualified professional.

(c) Information required. The forest conservation plan shall include the following elements:

(1) An approved forest stand delineation according to the criteria established in the Worcester County Forest Conservation Manual and ~ NR 1-406 of this Subtitle.

(2) A map of the site drawn at the same scale as the grading or subdivision plan.

(3) A table that lists, in square feet:

A. The net tract area;

B. The total existing forest area;

C. The area of forest conservation required; and

D. The total area of forest conservation that the applicant proposes to provide, including both on-site and, if applicable, off-site areas.

(4) For any forested areas which cannot be retained, demonstrate:

A. How techniques for forest retention have been exhausted;

B. Why priority forest and priority areas specified in the Worcester County Forest Conservation Manual cannot be left in an undisturbed condition;

C. If priority forest and priority areas cannot be left undisturbed, how the afforestation or reforestation will be carried out in compliance with this Subtitle;

D. Where on the site in priority areas afforestation or reforestation is proposed; and

E. Where off the site in priority areas afforestation or reforestation is proposed.

(5) A clear graphic indication of the forest conservation to be provided on the site, showing areas where retention of existing forest, reforestation or afforestation is planned.

(6) A construction timetable showing the sequence for tree conservation procedures which will allow for sufficient protection of trees prior to or during any construction, clearing or grading.

(7) A reforestation plan with a timetable for planting, a description of the site, site preparation methods, species, size and spacing of planting stock, and any other information required by the Worcester County Forest Conservation Manual.

(8) An afforestation plan, if required, with a timetable for planting, description of the site, site preparation methods, species, size and spacing of planting stock, and any other information required by the Worcester County Forest Conservation Manual.

(9) Show locations and types of protective devices to be used during construction

activities to protect trees and areas of forest designated for conservation.

(10) Show the planned limits of disturbance, including any forest disturbance reasonably anticipated as a result of future development within the subject area.

(11) Show planned stockpile areas.

(12) Incorporate a schedule for completion to assure that all required afforestation and reforestation occurs as required by §§ NR 1-408 and NR 1-410 herein.

(13) Incorporate the details of a short term management agreement to be in effect for two full growing seasons, describing how the areas designated for afforestation and reforestation will be maintained to ensure protection and satisfactory establishment, including:

A. Watering;

B. Reinforcement planting provision if survival rates fall below required standards, as set forth in the Worcester County Forest Conservation Manual;

C. Provisions for access by the department to the afforestation or reforestation site; and

D. Such guaranty as required in § NR 1-415 herein.

(14) Incorporate the details of all anticipated perpetual protective agreements to provide protection for areas of forest conservation, including areas of afforestation, reforestation, and retention by means of conservation easements, deed restrictions, covenants, timber management plans, forest conservation and management agreements or other similar devices to provide preservation at all times, as described in the Worcester County Forest Conservation Manual. These restrictions shall be noted on the record plat and deeds, and shall be in effect at all times.

(15) Incorporate details of any timber management plans in place or expected to be utilized in all areas of retention, reforestation or afforestation.

(16) Whenever the afforestation or reforestation is to occur off-site, the person required to conduct such planting shall provide the department:

A. An executed deed conveying title to the site;

B. An executed conservation easement agreement;

C. Written and legally recorded evidence of a landowner's consent to the use of a selected site; or

D. Other written evidence of a possessory or ownership interest in a selected site.

(d) Review and approval by department. Within forty-five calendar days after receipt of the forest conservation plan, the department shall notify the applicant by mail whether the plan is approved or disapproved. The department may extend the deadline with the approval of

the applicant. Such notification shall be effective upon mailing. All forest stand delineations and forest conservation plans must be approved by the department before a preliminary subdivision plan or site plan is approved by the Planning Commission.

(e) Revocation of permit. The county may refuse to issue or may revoke a building permit, zoning permit or stormwater management permit for any property found to be in noncompliance with this Subtitle.

(f) Approval required. If a forest conservation plan is required by this Subtitle, a person may not cut, clear or grade until the department has approved the plan.

(g) Alteration of plan. The forest conservation plan cannot be altered without approval from the department.

(h) Stop work order and revocation. The department may issue a stop work order or may revoke an approved forest conservation plan. Prior to revoking approval of a forest conservation plan, the department shall notify the owner and/or developer in writing and provide an opportunity for a presentation of evidence before the department. A stop work order shall be issued for the site until the issue of revocation has been finally resolved. Such stop work order or revocation shall be issued by the department if it finds that:

(1) Any provision of the plan has been violated;

(2) Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement or omission of a relevant or material fact;

(3) Changes in the development or in the condition of the site necessitate preparation of a new or amended plan; or

(4) Approval of the forest stand delineation is revoked.

§ NR 1-408. Afforestation.

(a) Afforestation requirement. Unless specifically exempted under the provisions of § NR 1-403(b) herein, a person making application after the effective date of this Subtitle for subdivision or site plan approval, a grading permit or a sediment control permit for an area of land of forty thousand square feet or greater, shall:

(1) Conduct afforestation on the lot or parcel in accordance with the following:

A. A subject area having less than twenty percent of the net tract area in forest cover shall be afforested up to at least twenty percent of the net tract area in the following zoning districts as specified in the Worcester County Zoning Ordinance:

1. A-1 Agriculture District;

2. C-1 Conservation District; and

3. E-1 Estate District.

B. A subject area having less than fifteen percent of its net tract area in forest cover shall be afforested up to at least fifteen percent of the net tract area in the following zoning districts as specified in the Worcester County Zoning Ordinance:

1. R-1, R-2, R-3, R-4 and R-5 (Residential Districts);

2. B-1 and B-2 (Business Districts);

3. M- 1 and M-2 (Industrial Districts);

4. V-1 Village District;

5. RPC Residential Planned Community District; and

6. CA Commercial Airport District.

(2) Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in §§ NR 1-408(a)(1)A and B herein:

A. The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and

B. Forest cut or cleared below the required afforestation level shall be reforested or afforested at a two to one ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.

(b) Afforestation standards. Standards for afforestation shall be as set forth in the Worcester County Forest Conservation Manual.

§ NR 1-409. Retention.

(a) Retention priorities. The following are considered priority for retention and protection and shall be left in an undisturbed condition, with the exception of general woodlot management, unless the applicant has demonstrated, to the satisfaction of the department, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered:

(1) [Amended 8-8-1995 by Bill No. 95-8] Forest communities located in sensitive areas, including the one-hundred-year floodplain, tidal wetlands, intermittent and perennial streams and their buffers, steep slopes, nontidal wetlands and their buffers and critical habitats;

(2) Contiguous forest that connects the largest undeveloped or most vegetated areas of land within and adjacent to the site;

(3) Forest communities containing species identified on the list of rare, threatened, and endangered species of the United States Fish and Wildlife Service or the Maryland Department of Natural Resources;

(4) Trees that:

A. Are part of an historic site;

B. Are associated with an historic structure; or

C. Have been designated by the state or the department as a national, state or county champion tree; and

(5) Any tree, in healthy condition, having a diameter measured at four and a half feet above the ground of:

A. Thirty inches or more; or

B. Seventy-five percent or more of the diameter, measured at four and a half feet above the ground, of the current State Champion Tree of that species as designated by the Maryland Department of Natural Resources and listed in the Worcester County Forest Conservation Manual.

(b) Standards for protecting trees from construction activities. Before cutting, clearing, grading or construction begins on a site for which a forest conservation plan is required by these regulations, the applicant shall employ protective devices as defined and described in the Worcester County Forest Conservation Manual to protect retained trees and forest areas from construction activities.

§ NR 1-410. Reforestation.

(a) Reforestation requirements. Forest cover cleared, including any forest disturbance reasonably anticipated as a result of future development within the subject area, shall be reforested in accordance with the following requirements.

(1) In the A-1 or C-1 Zoning Districts as established in the Worcester County Zoning Ordinance one-quarter acre shall be planted for each acre cleared, provided that at least fifty percent of the net tract area remains in forest cover. For any clearing which results in a reduction in forest cover to below fifty percent of the net tract area, reforestation shall then be required at the rate of two acres planted for each acre cleared.

(2) In the E-1 Zoning District as established in the Worcester County Zoning Ordinance one-quarter acre shall be planted for each acre cleared, provided that at least twenty-five percent of the net tract area remains in forest cover. For any clearing which results in a reduction in forest cover to below twenty-five percent of the net tract area, reforestation shall be required at the rate of two acres planted for each acre cleared.

(3) In the R-1, R-2, R-3, R-4, V-1, RPC or CA Zoning Districts as established in the Worcester County Zoning Ordinance one-quarter acre shall be planted for each acre cleared, provided that at least twenty percent of the net tract area remains in forest cover. For any clearing which results in a reduction in forest cover to below twenty percent of the net tract area, reforestation shall then be required at the rate of two acres planted for each acre cleared.

(4) In the B-1, B-2, M-1 or M-2 Zoning Districts as established in the Worcester County Zoning Ordinance one-quarter acre shall be planted for each acre cleared, provided that at least fifteen percent of the net tract area remains in forest cover. For any clearing which results in a reduction in forest cover to below fifteen percent of the net tract area, reforestation shall then be required at the rate of two acres planted for each acre cleared.

(b) Reforestation credits. There shall be a credit, measured against the reforestation requirement, of one acre for each forested acre retained above the percentages specified in this section.

§ NR 1-411. On-site afforestation or reforestation.

Unless an exception or adjustment is granted pursuant to § NR 1-416 herein, any required afforestation or reforestation shall occur on the subject area in accordance with the provisions specified in the Forest Conservation Manual with regard to priorities and preferred sequence.

§ NR 1-412. Off-site afforestation or reforestation.

(a) Exception required. A person required to afforest or reforest may apply for an exception or adjustment pursuant to ~ NR 1-416 herein to allow for any or all required afforestation or reforestation to be accomplished on an alternate site. Any such off-site afforestation or reforestation shall be in accordance with the provisions specified in the Forest Conservation Manual with regard to priorities and preferred sequence.

(b) Criteria for alternate site. The Board of Zoning Appeals may approve an alternate site with consideration to the proximity to the subject area, the land use in the vicinity of the alternate site, the existing forest cover on the alternate site, and such other matters as the Board of Zoning Appeals may determine to be appropriate. Off-site mitigation areas can include stream buffers which must be a minimum one hundred feet in width.

(c) Special conditions. In granting an exception for an off-site afforestation or reforestation the Board of Zoning Appeals may impose such conditions as they determine necessary and appropriate to carry out the purpose and intent of this Subtitle.

§ NR 1-413. Payment in lieu of afforestation and reforestation.

(a) Forest Conservation Fund. The County Commissioners shall establish, by resolution, a Forest Conservation Fund, which shall be managed in accordance with the County Financial Management Rules. Payments made to the fund shall be used only for the purpose authorized by this Subtitle and may not revert to the general fund of the county.

(b) Exception required. A person required to afforest or reforest may apply for an exception or adjustment pursuant to § NR 1-416 herein to allow for payment to the Forest Conservation Fund in lieu of any or all required acres of afforestation or reforestation.

(c) Amount of payment. The County Commissioners shall establish a schedule of the amount of required payment, on a per acre basis, based upon the value of nearby land and the estimated cost of performing the reforestation or afforestation planting and maintenance. Such

payment must be received by the County Commissioners prior to recordation of a subdivision plat, approval of a site plan, or issuance of a grading permit or sediment control permit for the subject area.

(d) Use of payments. All payments made to the Forest Conservation Fund pursuant to this section shall be used by the County Commissioners only on the costs directly related to reforestation and afforestation projects, including site acquisition and preparation, however no more than ten percent of said payments may be used for the purchase of equipment necessary to accomplish reforestation and afforestation.

(e) Project location. The County Commissioners shall determine suitable and desirable reforestation and afforestation project sites which may include existing or planned county park land.

§ NR 1-414. Standards for reforestation and afforestation.

Tree species used for afforestation or reforestation shall be native to Worcester County and selected from a list of approved species as set forth in the Worcester County Forest Conservation Manual. Planting techniques and maintenance of trees planted shall be as established in the Worcester County Forest Conservation Manual.

§ NR 1-415. Bonding and protective agreements.

(a) Required.

(1) Any person other than a federal, state or county agency required to reforest or afforest under this Subtitle shall enter into a short term management agreement with the County Commissioners requiring adherence to a short term management plan for the afforested or reforested area for two full growing seasons from the date of planting. The plan shall be prepared in accordance with the Worcester County Forest Conservation Manual and shall be a part of the forest conservation plan provided by the person reforesting or afforesting. The short term management agreement as well as completion of reforestation or afforestation in accordance with the approved forest conservation plan shall be bonded to the County Commissioners.

(2) Any person required to retain, afforest or reforest under this Subtitle shall enter into a perpetual protective agreement for the forest with the County Commissioners.

(b) General requirements of agreement. Approved forest conservation plans shall constitute binding agreements between the County Commissioners and the developer. Short term management agreements and perpetual protective agreements shall be in a form approved by the department and shall be signed, witnessed and acknowledged before a notary public. Perpetual protective agreements shall be recorded among the Land Records, and short term management agreements may be recorded among the Land Records at the option of the department. Any person entering into a short term management agreement or perpetual protective agreement must have the legal authority to enter into such agreement and shall provide the department with such evidence of title, lienholders and authority as the department may reasonably require. Any hen holders shall subordinate their liens to the agreement, it being the intent that agreements shall constitute a valid binding encumbrance upon the real property described therein and run with the land.

(c) Procedures. The department shall establish such procedures for agreements and bonding as the department may determine necessary in order to carry out the intent of this section.

(d) Bonding requirements. Completion of work required under an approved forest conservation plan and every short term management agreement shall be secured by a bond to the County Commissioners in accordance with this subsection.

(1) The agreement shall include a description of the bond which secures it.

(2) Only cash, bank deposits in federally insured institutions and letters of credit issued by federally insured institutions approved by the County Commissioners, shall be accepted as security for bonds. No corporate surety or property bonds may be accepted.

(3) Every bond shall be in the amount of two hundred percent of the estimated cost of the afforestation or reforestation and management thereof as set forth in the forest conservation plan and described in the short term management agreement. The estimated cost shall be determined by the department based upon the plan, Forest Conservation Manual, current prices and any such data provided by the applicant. Bond amounts shall be divided into two amounts, one for completion of the forest conservation plan and one for the short term maintenance agreement.

(4) Bonds shall be on forms approved by the department.

(e) Bond reductions and release.

(1) Partial release may be requested after reforestation or afforestation upon the following schedule.

A. For vegetation planted between January 1 and May 15, a partial release of up to fifty percent of the bond may be granted by the County Commissioners after September 15 of that year.

B. For vegetation planted between May 16 and June 30, a partial release of up to fifty percent of the bond may be granted by the County Commissioners after June 1 of the following year.

C. For vegetation planted between July 1 and December 31, a partial release of up to fifty percent of the bond may be granted by the County Commissioners after September 15 of the following year.

(2) Upon satisfactory completion of the short term management agreement the bond shall be released.

(3) Requests for bond reduction or release shall be in writing directed to the department and shall be approved or disapproved by the County Commissioners after recommendation by the department.

(f) Forfeiture of bond. In the event of a failure to complete or violation of a forest conservation plan or short term management agreement the bond may be forfeited in whole or in part by the County Commissioners after recommendation of the department. The County

Commissioners shall provide the person failing to complete or in violation of the forest conservation plan or short term management agreement with an opportunity to be heard prior to forfeiture upon not less than fifteen days written notice. Bond proceeds may be used by the County Commissioners to correct or complete the work required by the forest conservation plan or short term management agreement.

(g) Perpetual protective agreements.

(1) Any person required to retain, reforest or afforest shall enter into a perpetual protective agreement to ensure that the forest retained or planted shall be protected against clearing.

(2) The department may accept as a protective agreement any one of the following which, in the determination of the County Commissioners, ensures compliance with the intent of this Subtitle.

A. State Forest Conservation Management Agreement as established in the Tax Property Article of the Annotated Code of Maryland.

B. Any forest or tree conservation program or reforestation program established under the Natural Resources Article of the Annotated Code of Maryland.

C. An agreement in a form required by the County Commissioners.

(h) Right of entry. Forest conservation plans, short term management agreements and perpetual protective agreements shall include such rights of entry and easements to ensure compliance therewith and with this Subtitle as the County Commissioners may reasonably require.

§ NR 1-416. Adjustments and exceptions.

(a) Power to grant.

(1) The Board of Zoning Appeals may grant, upon specific appeal, such adjustments of and exceptions to the requirements of this Subtitle as will not be contrary to the purposes hereof, where, owing to special or unique conditions, a literal enforcement of the provisions of this Subtitle would result in unnecessary hardship. An adjustment of or exception to the terms of this Subtitle shall not be granted unless the applicant has demonstrated each of the following:

A. Specifically how the unwarranted hardship would be caused;

B. How enforcement of this Subtitle will deprive the applicant of rights commonly enjoyed by others;

C. How the case, which is subject to the appeal, is unique and what special conditions apply;

D. How the intent of the Subtitle will be satisfied; and

E. How the adjustment or exception may not adversely affect water quality.

(2) The exception or adjustment may not be based upon conditions or circumstances which are a result of actions of the applicant. The condition or circumstances for which the adjustment or exception is granted shall not be one that would be reasonably addressed under legislation of general applicability consistent with the intent of this Subtitle. The Board of Zoning Appeals may not exempt any person from the requirements for a short term management or perpetual protective agreement.

(3) The Board of Zoning Appeals may, if all of the above criteria are met, grant an adjustment or exception to allow a payment in lieu of retention, reforestation or afforestation in accordance with the provisions of § NR 1-413 of this Subtitle.

(b) Findings. The Board of Zoning Appeals shall make specific findings in each case for adjustment or exception.

(c) Procedure.

(1) Request for adjustment or exception shall be in writing, signed by the applicant and shall be heard by the Board of Zoning Appeals after at least fifteen days notice. The Maryland Department of Natural Resources shall be entitled to such notice and to intervene in any application for an adjustment or exception.

(2) Applications for adjustment or exception shall be made upon such forms as the department shall provide and shall provide in specificity the adjustment or exception requested and the reasons therefor.

(3) Any application for an adjustment or exception shall include a copy of the forest stand delineation for the subject area.

§ NR 1-417. Inspections.

The department, or its agent, may conduct such inspections as it may from time to time determine appropriate to ensure compliance with this Subtitle. Any person required to comply with a declaration of intent, forest conservation plan or simplified forest conservation plan shall be deemed to have granted such rights of access as may be reasonably required to perform such inspection.

§NR 1-418. Enforcement and penalties.

(a) Civil infraction. Violations of the provisions of this Subtitle or failure to comply with any of its requirements shall constitute a civil infraction.

(b) Who may be considered violator. The owner or lessee of any parcel of land or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided.

(c) Declarations of intent.

(1) Any person found in noncompliance with a declaration of intent or who conducts a regulated activity on an area covered by a declaration of intent within five years of

the effective date of such declaration of intent may result in loss of exemption and may be subject to the provisions of this Subtitle with regard to afforestation and reforestation. In addition, such person shall be subject to other enforcement action specified in this section. In its determination of appropriate enforcement action, the department may consider whether such violation of a declaration of intent is a knowing violation of this Subtitle.

(2) Notwithstanding any other provision of this section, the department shall require a person failing to file a declaration of intent prior to proceeding with an activity which would otherwise have been exempt upon filing of such declaration of intent to be subject to a stop work order issued by the department and file a declaration of intent prior to continuation of any such activity. Where such person fails to comply with a stop work order or fails to file a declaration of intent, the department may proceed with additional enforcement actions as specified in this section.

(d) Revocations. Nothing herein contained shall prevent the county from revoking any permit, adjustment or exception, or plan approval from the offender or from taking such other lawful action as is necessary to prevent or remedy any violation of this title.

(e) Stop work order. The department may issue a stop work order against a person who violates a provision of this ordinance or a regulation, order, approved forest conservation plan, or maintenance agreement. The department may also seek an injunction requiring the person to cease violation of these regulations and take corrective action to restore or reforest an area.

(f) Order of court. To the maximum extent reasonable, the court shall order the violation corrected and may issue such additional orders as the court may deem appropriate to safeguard against future violations of this Subtitle.

(g) Additional penalties. In the case of the admission of or conviction on a civil infraction issued for the unlawful clearing of forest cover, the department shall assess a penalty of thirty cents per square foot for any forest cover unlawfully cleared. The assessment shall be levied against the property owner of the land so cleared. Failure of the property owner to pay the assessed penalty within ninety days of the date of the assessment shall result in the assessment becoming a lien on said property in the same manner as property taxes. The penalty shall be paid to the county and shall be deposited in the Forest Conservation Fund.

§ NR 1-419. Appeal of decision.

(a) Appeal to Board of Zoning Appeals. Any person subject to the provisions of this Subtitle who alleges that there is an error in the application of the law (but not in discretionary judgment), in any order, requirement, decision or determination made by the department in the administration or enforcement of this Subtitle with respect to any application or project of said person may appeal the order, requirement or decision to the Board of Zoning Appeals. The appeal shall be made on such forms and with such fee as determined by the County Commissioners.

(b) Appeals to court. Any person with standing aggrieved by any decision of the Board of Zoning Appeals on appeal of a departmental action under this Subtitle may appeal the same to the Circuit Court of the county in accordance with the Maryland Rules of Procedure.

§ NR 1-420. Amendments to this Subtitle.

This Subtitle may be amended as required, however all amendments to this Subtitle are subject to the approval of the Maryland Department of Natural Resources.

§ NR 1-421. Worcester County Forest Conservation Manual.

The County Commissioners shall, by resolution, adopt a Worcester County Forest Conservation Manual. The County Commissioners may, from time to time, amend and update said manual as they shall determine necessary.

Chapter A236

GAS FRANCHISE

§ A236-1. Franchise granted.
§ A236-2. Right of entry.
§ A236-3. Excavations.
§ A236-4. Liability.
§ A236-5. Term; renewal.
§ A236-6. Tax exemption.
§ A236-7. Severability.
§ A236-8. When effective.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 10-15-1990 as Ord. No. 311. Amendments noted where applicable.]

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§ A236-1. Franchise granted.

The Mayor and Council of Pocomoke City does hereby grant unto Eastern Shore Gas Company, Inc., a Maryland corporation, and unto its successors and assigns the right and franchise to build, construct, extend, maintain and operate in the Town of Pocomoke City, Worcester County, Maryland, a plant or establishment for the conversion, storage and/or distribution of, and in said town to distribute through mains and sell and deliver to the public, natural, liquefied petroleum or artificial gas and for such purpose or purposes to lay pipe, conduits, conductors and/or other appurtenances of whatsoever kind or nature through and under the streets, highways, alleys, lanes and other public areas in said Town of Pocomoke City, Maryland.

§A236-2. Right of entry.

Pursuant to the franchise hereby granted, said Eastern Shore Gas Company, Inc., its successors and assigns shall have the right to enter upon and use any one (1) or more or all of the streets, avenues, highways, alleys, lanes and other public areas within the corporate limits of said Town of Pocomoke City, Maryland, as they now exist or as they may hereafter be extended, for the purpose of distribution and sale of natural, liquefied petroleum or artificial gas, subject to the terms and conditions herein provided.

§ A236-3. Excavations.

This franchise shall be exercised in such manner that at no time shall public travel on any of said streets, avenues, highways, alleys, lanes or other public areas be unnecessarily affected or impeded by the laying, maintenance or repair of said gas pipes, conduits or conductors, and no more than one thousand (1,000) feet of said streets, avenues, highways, alleys, lanes or public areas shall be at any one time excavated for the use or uses aforesaid, and the surface of all such streets, avenues, highways, alleys and lanes, where used for the purpose of said franchise, shall be restored and left in as good condition as they were before such use, subject to terms and conditions of Article III of Chapter 201 of the Pocomoke City Code.

§ A236-4. Liability.

In accepting this franchise, the holder hereof agrees and covenants to indemnify and save harmless said Mayor and Council of Pocomoke City from any and all liability for any and all damages arising out of the construction, maintenance and/or operation of the aforesaid gas plant or establishment and/or the laying, maintenance and/or use of said gas mains, pipes, conduits, conductors and any and all appliances and equipment used in connection therewith.

§ A236-5. Term; renewal.

Subject to the other provisions of this ordinance, the franchise hereby granted is limited to the period of ten (10) years from October 1, 1990, but it may, in the discretion of the Mayor and Council of Pocomoke City, be renewed for a like or shorter period, on the same terms and conditions as are herein provided, on application by said Eastern Shore Gas Company, Inc., its successors or assigns then engaged in the distribution through mains of natural, liquefied petroleum or artificial gas in said town at least six (6) months prior to the expiration of the period of time for which this franchise or any renewal hereof is granted, such applications to be in writing and to be addressed to the Mayor and Council of Pocomoke City, Maryland.

§ A236-6. Tax exemption.

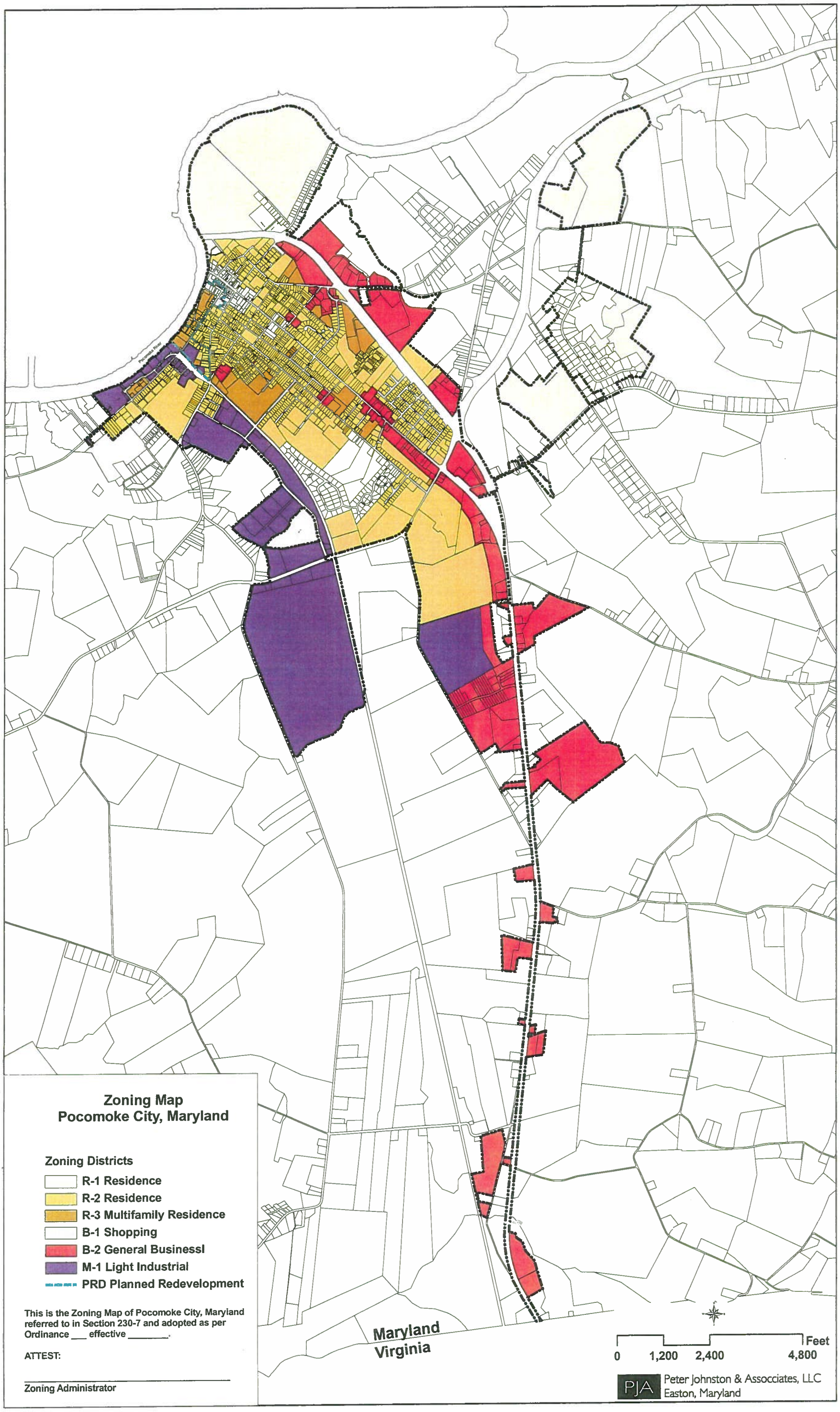
Said Eastern Shore Gas Company, Inc., its successors or assigns shall not be liable to said Town of Pocomoke City for occupation or franchise tax during the existence of this franchise but shall be liable for any and all other lawful taxes which may be legally imposed on said franchise holder.

§ A236-7. Severability.

In case it is judicially determined that any word, phrase, clause, item, sentence, paragraph or section of this ordinance or the application thereof to any person or circumstances is invalid, the remaining provisions and the application of such provisions to the other persons or circumstances shall not be affected thereby, the Mayor and Council of Pocomoke City declaring that it would have ordained the remaining provisions of this ordinance without such word, phrase, clause, item, sentence, paragraph or section, or the application thereof, so held invalid.

§ A236-8. When effective.

This ordinance shall take effect from and after October 1, 1990, upon approval by the Mayor and upon the filing with the City Clerk of the acceptance by said Eastern Shore Gas Company, Inc., by letter within sixty (60) days from the date of the passage of this ordinance, of the franchise hereby conferred, which said franchise shall thereupon become a binding contract between the Mayor and Council of Pocomoke City and said Eastern Shore Gas Company, Inc., its successors and assigns.


Zoning Map
Pocomoke City, Maryland
Zoning Districts
R-1 Residence
R-2 Residence
R-3 Multifamily Residence
B-1 Shopping
B-2 General Businessl
M-1 Light Industrial
PRD Planned Redevelopment
This is the Zoning Map of Pocomoke City, Maryland referred to in Section 230-7 and adopted as per Ordinance ___ effective _____.
ATTEST:
Zoning Administrator
Pocomoke River
Maryland
Virginia
0
1,200
2,400
4,800
Feet
PJA
Peter Johnston & Assocciates, LLC
Easton, Maryland