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## **Chapter 8**

### **Misdemeanors and Municipal Infractions**

#### § 8-1 Misdemeanor; Municipal Infractions; General Penalty; Continuing Violations.

A. Misdemeanor. As used in this section "misdemeanor" shall have the following meaning: (1) 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. (2) unless otherwise specified, a violation of any law of the town. All violations of this code shall be treated as "misdemeanors" unless specifically declared by this code or any ordinance of the town to be a municipal infraction.

B. Fine for misdemeanor. Whenever in this code or in any ordinance of the town any act is prohibited or is made or declared to be a misdemeanor, where no specific penalty is provided therefor, the violator of any such provision of this code or any ordinance shall be punished by a fine not to exceed \$1,000.00 or imprisonment not exceeding six months or both. Each day any misdemeanor violation of any town ordinance continues shall constitute a separate offense and a conviction for one violation shall not be a bar to a subsequent conviction for a continuation of the same offense on successive or subsequent days.

C. Municipal Infractions.

1. Declaration. The Town Commissioners shall, by official act, declare that the violation of such ordinances as they deem appropriate shall be municipal infractions. For each such violation, a specific fine shall be set which shall not exceed one thousand dollars (\$1,000) for each infraction and for each repeat or continuing infraction. The fine shall be expressed as a discrete amount rather than being expressed in terms of a maximum or a minimum amount. The authority to declare infractions and set fines shall not be delegated by the Town Commissioners to any other administrative or legislative body.

2. Citation. Citations for municipal infractions shall be issued by a law enforcement officer or other person designated by the Town Commissioners to those persons whom the officer adjudges to be committing a municipal infraction or on the basis of an affidavit submitted to an appropriate official of the town, setting forth the facts of the alleged violation. The officer shall serve a citation in accordance with Maryland Rule 3-121 or, for real property related violations, if proof is made by affidavit that good faith efforts to serve the defendant under Rule 3-121(a) of the Maryland Rules have not succeeded, by regular mail to the defendant's last known address; and by posting of the citation at the property where the infraction has occurred or is occurring, and, if located within the town, at the residence or place of business of the defendant. A copy of the citation shall be retained by the town 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) 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 town.

- (F) The right of the accused to elect to stand trial for the infraction.
- (G) The effect of failing to pay the assessed fine or demand a trial within the prescribed time.
- (H) The issuing authority's certification attesting to the truth of the matter set forth in the citation.

3. Payment of fine. The fine for an infraction shall be as specified in the section violated or as set forth in this section. The fine is payable by the recipient of the citation, at town hall, within twenty (20) calendar days of receipt of the citation.

4. Election to stand trial. A person receiving a citation for a municipal infraction may elect to stand trial for the offense by notifying the town in writing of his/her intention to stand trial. The notice shall be given at least five (5) days prior to the date of payment of a fine as set forth in the citation. Upon receipt of the notice of the intention to stand trial, the town shall forward to the District Court for Queen Anne's County a copy of the notice from the person who received the citation indicating his 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 town. Service shall be accomplished in accordance with Maryland Rule 3-121.

5. Failure to pay fine. If a person who has received a citation for a municipal 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 intention to stand trial for the offense, and does not request a review of the issuance of the citation by the Administrative Review Board, the person is liable for the assessed fine. In such cases, the fine may double to an amount not to exceed one thousand dollars (\$1,000). The town shall then request adjudication of the case through the District Court, including the filing of a demand for judgment by affidavit. The District Court shall promptly schedule the case for trial and summon the defendant to appear. The defendant's failure to respond to such summons shall result in the entry of a judgment against the defendant in favor of the town in the amount then due if a proper demand for judgment on affidavit has been filed.

6. Conviction. Adjudication on a municipal infraction, whether by the District Court or by payment of the fine to the town, is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by criminal conviction. If any person shall be found by the District Court to have committed a municipal infraction, the person shall be required to pay the fine determined by the District Court in an amount not to exceed \$400.00, the person shall be liable for the costs of the proceedings in the District Court, and the court may permit the town to abate any such condition at the person's expense.

7. Fine. Whenever in this code or in any ordinance of the town, any act has been declared a municipal infraction and no specific penalty is provided therefor, the violator shall be subject to a fine of one hundred dollars (\$100.00) for the first offense and two hundred dollars (\$200.00) for every subsequent offense.

8. Continuing offense. Each day any violation of any provision of this code or of any ordinance shall continue shall constitute a separate offense.

§ 8-2. Penalty For Failure To Provide Information.

It shall be unlawful for any person to fail and/or refuse to provide his or her proper name and/or address to an enforcement official attempting to issue a municipal infraction citation. Any person who violates any provision of this § 8-2 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalties as provided in 304 of the Charter.

*Originally Adopted November 2, 2009 as Ordinance No. 117/09. The date of any amendment will appear below the amended paragraph in brackets ([ ] ).*