

## **SUBCHAPTER I Watershed Forest Reserve and Mangrove Protection**

26 PC 4-101. Short title.

This subchapter is known and may be cited as the “Pohnpei Watershed Forest Reserve and Mangrove Protection Act of 1987.”

Source: P.L. No. 1L-128-87 §1, 7/8/87

26 PC 4-102. Purpose.

The purpose of this subchapter is to create and provide for the protection and maintenance of an effective watershed forest reserve, to protect important watershed areas, and to provide for the conservation and management of mangrove forests.

Source: P.L. No. 1L-128-87 §2, 7/8/87

26 PC 4-103. Findings.

The Legislature finds that:

- (1) There are many thousands of hectares of public trust lands with highly erodible soils, that should not be cleared of forest cover and/or used for domestic and farm purposes because such uses endanger the watersheds of Pohnpei;
- (2) There are in Pohnpei’s forests, unique and valuable plants and animals that require legal protection to assure their continued survival;
- (3) Mangrove forests provide the basis for healthy fisheries, and are thus of benefit to all the people of Pohnpei; and
- (4) The conservation, protection, and wise management of Pohnpei’s forests in perpetuity is of material benefit to all the people of Pohnpei.

Source: P.L. No. 1L-128-87 §3, 7/8/87

26 PC 4-104. Definitions.

Unless the context otherwise requires, for purposes of this subchapter:

- (1) “Board” means the Board of Directors of the Pohnpei Environmental Protection Agency or its successor in law.
- (2) “Chief” means the Chief of the Division of Forestry and Marine Conservation of the Department of Land and Natural Resources.

(3) “Director” means the Director of the Department of Land and Natural Resources.

(4) “Highly erodible or very highly erodible soils” means soils defined by the USDA Soil Conservation Service (SCS) in the 1982 report, “Soil Survey of Ponape, Federated States of Micronesia” as having a high or very high potential for being eroded by water. Specifically, they are as follows:

301 Dolokei-Foaseng Association, 30-60% slopes

303 Dolokei-Foaseng Association, 30-60% slopes, cobbly

306 Foaseng-Dolokei Association, 60-100% slopes

308 Foaseng Variet silt loam, 30-60% slopes

318 Tolonier-Dolon Association, 30-60% slopes

319 Tolonier-Dolon Association, 60-100% slopes

These soils are shown approximately on the map bounded by a red line.

(5) “Important watershed area” means an area that, as of 1985, was already inhabited on highly erodible soils and that will require special care to avoid polluting river systems, or increasing other associated hazards.

(6) “Mangrove forest” means a salt-tolerant tidal fringe ecosystem of trees, other plants, and animals.

(7) “Permit” means a written instrument allowing a specified use in a watershed forest reserve, or important watershed area issued by the Director.

(8) “Polluting liquids” means any synthetic liquid substance which will or may get into ground or surface water, such as gasoline, oil, brake fluid, pesticides, laboratory chemicals or any liquid substance deemed unsafe for the health of a watershed by the Director.

(9) “Solid waste” means any refuse composed of metal, plastic, glass, wood or wood fibers, synthetic material or any non-liquid substance deemed unsafe for the health of a watershed by the Director.

(10) “Watershed forest reserve” means a large, contiguous area of highly or very highly erodible soils that is protected from development and retained in forest cover to provide long-term water supply for Pohnpei.

Source: P.L. No. 1L-128-87 §4, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00

26 PC 4-105. Establishment of a watershed forest reserve.

Pursuant to 26 PC 4-114, the Pohnpei Public Lands Trust Board of Trustees is hereby empowered, authorized, and instructed to dedicate and vest the control and use rights in the following delineated public trust lands to the state government, Department of Land and Natural Resources, to be managed as a watershed forest reserve: all public lands within the green line on the USGS topographic map.

(1) Boundary marking and maintenance will be necessary to assure enforcement of this subchapter. The Division of Forestry and Marine Conservation, with the assistance of surveyors from the Division of Surveying and Mapping, will establish the boundary on the ground and describe it in metes and bounds within 18 months following the effective date of this subchapter [effective date is July 8, 1987]. Maintenance of the boundary will be the responsibility of the Division of Forestry and Marine Conservation.

(2) Uses permitted within the watershed forest reserve, under permit from the Director, are as follows:

(a) Growing of certain crops;

(b) Research on plants, animals, and natural processes;

(c) Recreation such as hiking, camping in designated areas, and sightseeing;

(d) Gathering of wild plants;

(e) Harvesting of timber, under supervision of the Chief; PROVIDED that watershed protection is the principal concern for use of the land, and any timber harvesting so permitted is planned and conducted so as to assure watershed protection; and

(f) Other such uses as may be deemed compatible with watershed protection as authorized in writing by the Director.

(3) Uses specifically forbidden within the Watershed Forest Reserve are as follows:

(a) Permanent occupancy of any kind, or the building of structures such as houses, sheds or barns;

(b) Any use of pesticides or other chemicals, unless specifically permitted after appropriate environmental review;

(c) Building of roads or trails, unless permitted in writing by the Director after appropriate environmental review;

(d) Cutting of any trees, except as may be authorized under permit;

(e) Clearing by the use of fire, or any other use of fire not authorized by written permit; and

(f) Grazing of livestock.

Source: P.L. No. 1L-128-87 §5, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00

26 PC 4-106. Important watershed areas.

The Legislature finds that the lands lying between the green and red lines on the USGS topographic map are on soils designated as erodible or highly erodible by the Soil Conservation Service, are partly occupied by farms and homesteads, and are important watershed areas to all the people of Pohnpei.

(1) The Division of Forestry and Marine Conservation, with the assistance of surveyors from the Division of Surveying and Mapping, will establish the boundary corresponding to the mapped red line on the ground and describe it in metes and bounds, assuring that the line is entirely on public lands, within two years of the date of final approval of this subchapter [effective date is July 8, 1987]. Maintenance of the boundary will be the responsibility of the Division of Forestry and Marine Conservation.

(2) In order to assure the future protection of these important watershed areas, the following restrictions shall apply within them:

(a) No additional building of roads or structures is permitted after the date that this subchapter becomes law;

(b) No rebuilding or improvement of structures now in existence is permitted;

(c) The Board shall strictly enforce all regulations pertaining to location and design of toilets, septic tanks, drain fields, piggeries, fire, use of chemicals, and other pertinent regulations within these areas;

(d) All disposal of solid waste shall be at authorized dump sites located outside of the important watershed area; dumping of solid wastes within the area is forbidden;

(e) Any dumps currently existing within this area shall be cleaned up within one year of the effective date of this subchapter [effective date is July 8, 1987], by those who created them or by the Office of Transportation and Infrastructure; and

(f) It is at all times forbidden to dump polluting liquids on the ground or to dispose of them by any manner within the area.

(3) The Board shall monitor a representative sample of these areas to see how well the above restrictions, and the enforcement of them, work to protect the important watershed areas. Within three years of the effective date of this subchapter [effective date is July 8, 1987], and every three years thereafter, the Board shall submit a report to the Legislature on the status of watershed protection in these areas, together with recommendations for any improvements deemed necessary. The Director shall concur in this report, or shall state in writing to the Governor any differences with it.

Source: P.L. No. 1L-128-87 §6, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00

26 PC 4-107. Mangrove forests.

Broad goals for the mangrove forests of Pohnpei are to conserve these forests for the maximum sustainable benefit to people, and to minimize those nonsustainable or conversion activities that lead to the destruction of the forests. Cooperation between the Department of Land and Natural Resources and the Board will be necessary to meet these broad goals.

(1) Within two years of the effective date of this subchapter [effective date is July 8,1987], the Director shall make a study to determine which mangrove areas of Pohnpei, if any, should be designated as Pohnpei mangrove forest reserves. The Director's report will include recommendations for protection and management of any areas so designated.

(2) Upon passage of this subchapter and filing of regulations, the following restrictions shall apply to all mangrove forests on Pohnpei:

(a) All cutting of trees is prohibited except as permitted in writing by the Director, through the Chief of the Division of Forestry and Marine Conservation;

(b) All dredging, road building, and other major land-disturbing activities affecting mangrove forests, whether privately or publicly sponsored, will require approval and a permit from the Director, and environmental review will be required for all such projects prior to approval;

(c) The building of new houses, sheds or other structures will be allowed only if the proponent can show a valid deed for the property to be built upon, or if the Pohnpei Public Lands Trust Board of Trustees and the Director agree that a permit can be issued without significantly harming the mangrove forest; PROVIDED that if either disagrees, the permit will be denied; and

(d) All use of chemical pesticides and herbicides, and the dumping of solid waste or polluting liquids is prohibited in mangrove forests except as may be permitted by the Director after appropriate environmental review.

Source: P.L. No. 1L-128-87 §7, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00

26 PC 4-108. General provisions.

(1) The Director shall make and prescribe rules and regulations for the use of watershed forest reserves, important watershed areas, and mangrove forests. Promulgation of initial regulations by the Director, for the implementation of this subchapter shall be completed within 90 days after the effective date of this subchapter [effective date is July 8,1987]. Copies of the Department regulations pursuant to this subchapter shall be available for inspection at the offices of the Director and the Chief of the Division of Forestry and Marine Conservation.

(2) The Director and the Chief shall, to the maximum extent possible, cooperate and coordinate with the Board, water authorities, and with all other agencies or organizations, public or private, that are concerned with forest resources, and with the College of Micronesia.

(3) Public understanding and acceptance of this subchapter are important to the success of its objectives. The Director shall work with the College of Micronesia-FSM and the Pohnpei

Department of Education in curriculum development and training for grade school and high school level teachers, and in extension education for adults. Areas of education that need to be emphasized are:

(a) General conservation of soil, water, and natural systems such as forests, mangroves, and lagoons;

(b) Watershed concepts and importance;

(c) Specific education regarding this subchapter;

(d) Wildfire prevention and responsible use of fire; and

(e) The recognition, appreciation, and protection of native species.

(4) The enforcement of this subchapter shall be as follows:

(a) Patrol of the areas and their boundaries established by this subchapter, and reporting of violations, will be the responsibility of the Division of Forestry and Marine Conservation. All other law enforcement agencies on Pohnpei are also specifically authorized and encouraged to enforce this subchapter.

(b) Taking legal action against reported violators shall be the responsibility of the Office of the Attorney General.

(5) Penalties for violation of certain provisions of this subchapter are as follows:

(a) Anyone who violates 26 PC 4-105(2) or 26 PC 4-106(2) shall be subject to a fine of not more than \$500, a term of not more than six months in jail for each offense, and liability for restoration of the site(s) to as near original condition as possible.

(b) Violators of 26 PC 4-105(3), regarding prohibited uses in a watershed forest reserve, and 26 PC 4-107(2), regarding prohibited uses in mangrove forests, shall be subject to a fine of not more than \$1,000 and a jail term of not more than one year for each offense, and liability for restoration of the site(s) to as near its original condition as possible; except that violation of 26 PC 4-105(3)(d), and 26 PC 4-107(2)(a), shall carry a fine of up to \$1,000 per tree so cut, consistent with Subchapter 2 of this Chapter.

Source: P.L. No. 1L-128-87 §9, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00

26 PC 4-109. Authorization for appropriation; administration.

There is hereby authorized to be appropriated annually from the general fund of Pohnpei such sums as are deemed necessary to implement this subchapter. The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose of this subchapter. The Governor shall report to the Legislature on or before October 15 following each fiscal year wherein sums are appropriated under the authorization of this

section. All sums appropriated for a fiscal year remaining unexpended or unobligated for expenditure at the end of the fiscal year shall revert to the general fund of Pohnpei.

Source: P.L. No. 1L-128-87 §8, 7/8/87