

POLICE*

ARTICLE I. IN GENERAL

ARTICLE II. MUTUAL AID PACTS

ARTICLE III. SEX OFFENDER RESIDENCY RESTRICTIONS

SOUTH PORTLAND CODE OF ORDINANCES

Chapter 21

POLICE*

* **Cross reference(s)**--Authority of police officers to impound animals, § 3-1; duty of police upon receiving report of dead or dying animal, § 3-15; authority of police to kill dangerous, fierce, vicious dogs, § 3-40; responsibility of police department relative to the enforcement of the building regulations, § 5-23; police departments; enforcement responsibilities relative to house-car trailers and mobile home camps, § 11-2; general authority of police official to enforce traffic regulations, § 15-28.

State law reference(s)--Authority to regulate police department, 30 M.R.S.A. § 2152(2).

Art. I. In General, §§ 21-1--21-13

Art. II. Mutual Aid Pacts, §§ 21-14--21-17

ARTICLE I. IN GENERAL

Sec. 21-1. Appointment of chief.

The chief of police shall be appointed by the city manager.

(Code 1966, § 2-16-1)

Charter reference(s)--Authority to appoint officers, § 302.1.

Sec. 21-2. General duties of chief.

The chief of police shall be charged with the responsibility of the enforcement and maintenance of law and order and the protection of public safety, morals and welfare, and shall further be charged to:

- (1) Superintend the overall administration of the police department as may be defined in police manuals or departmental organization plans, including but not limited to ordering additional physical examinations of policemen and the assignment of personnel throughout the department.
- (2) Establish a city-wide plan of traffic regulation, together with the traffic board, traffic engineer and director of public works;
- (3) Provide for effective investigation of all criminal problems and offenses, and provide for the effective patrol of the city.

(Code 1966, § 2-16-2)

Cross reference(s)--Duty of chief to deliver carcass, brain of slain dogs, § 3-41; chief's responsibilities relative to licensing of bicycles, § 4-9 et seq.

Sec. 21-3. Chief's powers.

The chief of police shall have all powers necessary and proper to execute the duties of his office as established procedure and need may direct.

The chief of police is authorized to represent the city in district court in the prosecution of alleged violations of those ordinances which the police department is empowered to enforce, if duly certified in accordance with 25 M.R.S.A. § 2803(3)-(A), or successor statute. The chief of police may designate any officer under his command, if so certified, to perform this prosecutorial function.

(Code 1966, § 2-16-3; Ord. No. 12-86/87, 1-5-87)

Sec. 21-4. Applicability of provisions in licenses chapter to police chief.

The provisions in Chapter 14, Licenses, Permits and Business Regulations Generally, which refer to "inspectors of the city" shall be applicable to the police chief.

Sec. 21-5. Burglar alarm systems.

- (a) The city shall charge a fee for each false burglar alarm to which the police department responds in accordance with the following schedule:

First false alarm\$00.00
Second false alarm.\$35.00
Third false alarm\$75.00
Fourth and any additional alarm\$100.00

For the purposes of this subsection, the number of false alarms shall be based upon the calendar year and shall be recalculated annually. A "false alarm" includes an alarm received from a malfunctioning system and an unintentional alarm activation. The person, firm or corporation may appeal the imposition of the false alarm fee to the chief of police, who may abate or reduce the fee upon good cause shown. The decision of the chief of police shall be final. The City also reserves the right to collect said false alarm fee as otherwise permitted by law.

- (b) Procedures and prohibitions on renewal of business license.
- (i) The city shall maintain a database containing a record of outstanding false alarm fees, organized by address and name.
 - (ii) In the course of renewing a business license, the Clerk's Office shall compare the address and name of the applicant against the outstanding false alarm fee database to determine whether the status of the address or name is that of an outstanding false alarm fee.
 - (iii) If the status of the address or name is that of an outstanding false alarm fee, the Clerk's Office shall notify the applicant that the business license will not be renewed unless the outstanding false alarm fee is immediately paid.

(Ord. No. 4-83/84, 8-15-83; Ord. No. 24-86/87, 6-1-87; Ord. No. 8-06/07, 11/20/06 [Fiscal Note: Less than \$1000]; Ord. No. 6-12/13, 11/19/12 [Fiscal Note: Less than \$1000])

Secs. 21-6--21-13. Reserved.

ARTICLE II. MUTUAL AID PACTS**Sec. 21-14. Authority to enter into pacts.**

The chief of police may enter into mutual aid pacts with the police departments of nearby cities or towns.

(Code 1966, § 2-16-5.1; Ord. No. 27-70, 11-2-70)

Sec. 21-15. When pacts become binding.

Mutual aid pacts shall become binding upon the city only after they are approved by the council and ratified by either the council or the municipal officers of the corresponding city or town.

(Code 1966, § 2-16-5.3; Ord. No. 27-70, 11-2-70)

Sec. 21-16. Police chief authorized to issue orders for use of city forces and direct forces.

The chief of police is authorized to issue necessary orders for the use of South Portland police forces outside the city boundaries and to direct such forces to place themselves under the operational control of the administrative head of the police force of the requesting city or town.

(Code 1966, § 2-16-5.2; Ord. No. 27-70, 11-2-70)

Sec. 21-17. Powers, duties, privileges, immunities of participants while in city.

Whenever any of the police forces of any city or town which are members of a mutual aid pact are engaged in the city, they shall have the same powers, duties, privileges, rights and immunities as members of the South Portland police department, subject to the provisions of the mutual aid pact.

(Code 1966, § 2-16-5.4; Ord. No. 27-70, 11-2-70)

ARTICLE III. SEX OFFENDER RESIDENCY RESTRICTIONS**Sec. 21-20. Title.**

This article shall be known as the "City of South Portland Sex Offender Residency Restriction Ordinance."

Sec. 21-21. Findings and purpose.

The City promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. The City recognizes that sex offenders who prey upon children may have a high rate of recidivism. Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to the Maine Sex Offender Registration and Notification Act of 1999, 34-A M.R.S.A. § 11201 *et seq.*, as may be amended from time to time, the City finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of this ordinance is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

Sec. 21-22. Authority.

This ordinance is adopted in accordance with the provisions of 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 3014, as may be amended from time to time.

Sec. 21-23. Definitions.

Setback - A 750 foot radius surrounding "Restricted Property."

Designated Sex Offender(s) - Person(s) convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the State of Maine or another jurisdiction.

Residence - The temporary or permanent occupation or use of a place, including, but not limited to a domicile, for the purpose of living, residing or dwelling.

Restricted Property - (i) The real property comprising a public or private elementary, middle or secondary school; and (ii) the real property comprising a municipally owned property or State-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreation facility that is open to the public where children are the primary users. The following properties are specially excepted from the definition of Restricted Property:

Greenbelt Walkway

Sec. 21-24. Restricted Property map; restrictions.

(a) The Planning Department, with the assistance of the Police Department, shall prepare and file with the City Clerk and Police Department an official map showing Restricted Property as defined by this ordinance. Said map is hereby incorporated herein and made a part of this ordinance. The Planning Department, with the assistance of the Police Department, shall by July 1 of each year recommend updates to the map to the City Council to reflect any changes in the locations of any Restricted Property and Setbacks. The City Council may amend the Restricted Property official map by Council Order, and any amended official map shall be filed with the City Clerk and the Police Department.

(b) No Designated Sex Offender shall reside within the Setback of any Restricted Property.

Sec. 21-25. Exceptions.

A Designated Sex Offender maintaining a residence within the Setback of a Restricted Property is not in violation of this ordinance if the residence was established and consistently maintained as a residence prior to May 19, 2014, the date of adoption of this ordinance. A Designated Sex Offender is not in violation of this ordinance if the Restricted Property is created, moved or enlarged and such creation, movement or enlargement results in a Designated Sex Offender residing within the Setback of a Restricted Property, as long as the residence was in place and consistently maintained prior thereto.

Sec. 21-26. Violations and penalties.

(a) A Designated Sex Offender who, thirty (30) days after actual receipt of written notice sent by regular mail or hand-delivered from the City, acting by and through its Police Department, is in violation of this ordinance shall be subject to an action brought by the City to enforce the requirements of this ordinance. The City may file a legal action against the violator seeking any and all remedies to which it is entitled pursuant to State and local laws, including, without limitation, declaratory and injunctive relief.

(b) The City may also seek a penalty in the minimum amount of \$500.00 per day. Each day of violation shall constitute a separate violation. In the event the City is the prevailing party in any action under this ordinance, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the City. All civil penalties shall inure to the benefit of the City of South Portland.

Sec. 21-27. Severability.

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 12-13/14, 5/5/14 [Fiscal Note: Less than \$1000])