

OFFENSES--MISCELLANEOUS PROVISIONS

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SOUTH PORTLAND CODE OF ORDINANCES

Chapter 17

OFFENSES--MISCELLANEOUS PROVISIONS

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ARTICLE I. IN GENERAL

Sec. 17-1. Resisting, refusing to aid police officers, constables.

No person shall resist a police officer or constable of the city in the discharge of his duties, nor shall any person neglect or refuse to aid and assist a police officer or constable when called upon to do so.

(Code 1966, § 6-6-2)

State law reference(s)--Refusing to aid officer when required by state, 17 M.R.S.A. § 2951; interfering with, obstructing law enforcement, 17 M.R.S.A. § 2952.

Sec. 17-2. Loitering generally; police order to disperse; penalty.

- (a) It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to:
- (1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tend to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.
 - (2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress therein, thereon and thereto.
- (b) When any person causes or commits any of the conditions enumerated in subsection (a) herein, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of the section.
- (c) Any person who violates any of the provisions of this section shall be subject to a fine not exceeding one hundred dollars (\$100.00). Any such violation shall constitute a separate offense on each successive day continued.

(Code 1966, § 6-6-1.5; Ord. No. 24-73, 9-5-73)

Sec. 17-3. Loitering in public with liquors about his person.

No person shall loiter on or about any street, public beach, park or other public place with malt, spirituous or vinous liquors about his person.

(Code 1966, § 6-6-1.4)

Sec. 17-4. Reserved.

Editor's note--Ord. No. 24-73, adopted Sept. 5, 1973, repealed former § 17-4 derived from Code 1966, § 6-6-1.9. Said former § 17-4 prohibited the obstruction of passage of foot travelers.

Sec. 17-5. Defacing, injuring property prohibited.

No person shall deface any building, fence or other property not his own by cutting, breaking, daubing with paint or in any manner defacing or injuring the same.

(Code 1966, § 6-6-1.7)

Sec. 17-6. Disturbing public meetings.

No person shall disturb any public meeting, singing school, entertainment or evening meeting of any kind by making loud or unusual noises, by shouting, stamping, whistling, or by standing about and obstructing the steps, passageways or entrance of any building where such meeting is being held.

(Code 1966, § 6-6-1.12)

State law reference(s)--For similar provisions, see 17 M.R.S.A. § 3954.

Sec. 17-7. Removal of gravel, soil, materials from streets, sand and gravel pits.

No person shall, except for road purposes, remove any gravel, soil or material from any portion of the public streets or from any gravel pit or sand pit belonging to the city without first obtaining the consent of the director of public works therefor.

(Code 1966, § 6-6-1.3)

Sec. 17-8. Carrying, carting night soil through streets.

No person shall cause any night soil or the contents of any vault or privy to be carried or carted through any of the streets of the city, unless in a tightly covered vehicle and after the hour of 10:00 p.m. and before the hour of 6:00 a.m.

(Code 1966, § 11-1-4)

Sec. 17-9. Using, selling, disposing of certain insecticides prohibited.

No person shall use, sell or dispose of DDT, lindane, aldrin, D.D.D., endrin, heptachlor, toxaphene or dieldrin in the city from and after November 8, 1970.

(Code 1966, § 11-1-7; Ord. No. 16-70, 10-19-70)

Sec. 17-10. Selling, using balloons inflated with hydrogen.

No person shall sell or use toy balloons inflated with hydrogen.

(Code 1966, Title 8, App. D, § 7(c)(5))

Sec. 17-11. Sliding in streets, sidewalks.

No person shall course, slide down, across, in or along any of the sidewalks or streets of the city upon any handsled, board jumper, skateboard or otherwise, unless such streets or ways shall be designated as play streets.

(Code 1966, § 6-6-1.1)

State law reference(s)--Authority to designate streets, sidewalks for sliding, 23 M.R.S.A. § 2851.

Sec. 17-12. Playing ball, throwing stones, etc., in streets prohibited.

No person shall play any game of ball or football or throw balls or stones, brickbats, clubs or snowballs within any of the streets in the city so as to unreasonably interfere with vehicles or pedestrian traffic.

(Code 1966, § 6-6-1.2, Ord. No. 5-93/94, 8-16-93)

Sec. 17-13. Games, recreational activities on Sunday morning.

- (a) No persons shall congregate on Sunday before 12:00 noon for the purpose of playing any game or indulging in any sport, exercise or recreation.

- (b) No persons shall, on Sunday before 12:00 noon, play any game or sport or indulge in any exercise or recreation in such a manner as to make themselves obnoxious to or disturb the peace and quiet of any of the citizens of the city.

(Code 1966, § 6-6-1.6)

Sec. 17-14. Nude, topless bathing.

No person shall swim or bathe in a nude state, nor shall any female appear in a topless bathing suit, so-called, in the waters of the city which are adjacent to any of the wharves, bridges, streets, railroads, cemeteries or places of public resort in the city.

(Code 1966, § 6-6-1.14)

Sec. 17-15. Indecent and obscene writing.

No person shall make any indecent figures nor write any indecent or obscene words upon any fence, sidewalk, building or other public place within the city.

(Code 1966, § 6-6-1.7)

Sec. 17-16. Kindling fire on another's property.

No person shall kindle any fire in any other person's field, pasture or enclosure without the consent of the owner.

(Code 1966, § 6-6-1.15)

Sec. 17-17. Noise generally.

No person shall, in or adjacent to any street or public place, make or continue, or cause to be made or continued, any loud, unnecessary or unusual noises, which noises shall either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others. The sounding in any such place of any signaling device, except as a danger warning; the playing of any musical instrument or device, or any other instrument or device for the production or reproduction of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants and passersby; the use in any such place of any loudspeaker or amplifier for the purpose of commercial

advertising or for commercial attention of the public to a specific building, location or business; and yelling, shouting, hooting, whistling or singing in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants or passersby, shall be considered to be a violation of this Code, but such enumeration shall not be deemed to be exclusive.

(Code 1966, § 6-1-2.1)

Cross reference(s)--Vehicle noise, § 15-10.

Sec. 17-18. Amplifying devices, machines.

No person shall, in or adjacent to any street, public place or building, install or use or cause to be installed or used any sound amplifying or reproducing instrument, machine or device for the production or reproduction of sound until that person has first obtained a permit from the City Clerk for such purposes; such permit shall be issued upon such conditions as the Chief of Police may prescribe. The applicant for such permit shall be required to pay a \$5.00 permit fee, but shall not be required to pay the \$15.00 processing fee otherwise required by Sec. 14-3(b).

(Code 1966, § 6-1-2.2; Ord. No. 4-94/95, 11-21-94, Fiscal note: less than \$1000)

Sec. 17-19. Disturbing radio, television reception prohibited; authority of city

engineer to inspect; interfering with inspections prohibited.

- (a) No person shall knowingly, maliciously or wantonly, by any means, unreasonably disturb the reception of radio or television waves.
- (b) The city electrician, or any of his authorized deputies or assistants, shall have the right to enter upon any premises at all reasonable hours for the purpose of inspecting the installation and operation of any instrument, device or machine of any kind whatsoever which causes or may cause such disturbance of radio or television reception.
- (c) No person shall hinder or interfere with the city electrician or any of his deputies or assistants in the inspection of any instrument, device or machine of any kind whatsoever, causing or which may cause radio or television disturbance.

(Code 1966, § 6-1-4)

State law reference(s)--Disturbing radio reception, 17 M.R.S.A. § 3962.

Sec. 17-20. Curfew hours for minors.

No child under sixteen (16) years of age shall be or remain upon any street or in any public place, restaurant or place of resort or amusement in the city after 9:00 p.m. from the first day of May to the last day of October, both inclusive, nor after the hour of 8:00 p.m. from the first day of November to the last day of April, both inclusive, unless accompanied by a parent, guardian or other person having the legal custody of such minor, or unless the lawful employment of such minor makes it necessary to be upon such street or in such public place, restaurant or place of resort or amusement after such hours, if in the judgment of the police department a public nuisance or disturbance is being or may be created.

(Code 1966, § 6-2-3)

Sec. 17-21. Reserved.

Editor's note--Section 17-21, prohibiting minors in certain amusement places, was repealed by Ord. No. 18-81/82, adopted Jan. 4, 1982. Said section was derived from Code 1966, § 6-2-2.

Sec. 17-22. Drinking in unlicensed places.

- (a) Any person taking a drink of liquor or offering a drink of liquor to another or any person in charge of a public place knowingly permitting drinking at or in a public place, except places licensed for on-premises sale of liquor, or any person taking a drink of liquor or offering a drink of liquor in any vehicle not licensed for sale of liquor shall be punished by a fine of not more than fifty dollars (\$50.00).
- (b) "Public place" as used in this section shall mean any common carrier, dance, entertainment, amusement or sport or grounds adjacent thereto and used in conjunction therewith or any highway, street or lane, or any place to which the public has access or is invited.

(Ord. No. 20-76, 8-16-76)

Sec. 17-23. Time of construction work regulated in certain districts.

No person shall perform or carry on or cause to be performed or carried on any construction or excavation work in the city in residential districts A, AA and G between the hours of 9:00 p.m. and 7:00 a.m. prevailing time, unless such construction or excavation work has been expressly permitted by the City Council. The City Council may permit construction or excavation work between 9:00 p.m. and 7:00 a.m. after notice to all owners of property within 500 feet as shown on the Assessor's records for the City of South Portland or other applicable municipality, and after a public hearing, upon a finding that construction or excavation during those hours best protects the public health, safety and welfare. Any person found to be violating this

section shall be subject to the penalty provisions set forth in section 1-8 of this Code.

(Ord. No. 17-03/04, 2/18/04 [Fiscal Note: Less than \$1000]; Ord. No. 10-06/07, 11/20/06 [Fiscal Note: Less than\$1000])

Sec. 17-24--17-31. Reserved.

ARTICLE II. ADVERTISING*

 * **State law reference(s)**--Outdoor advertisers, generally, 23 M.R.S.A. § 1903 (esp. 1913-A).

Sec. 17-32. Permit to distribute advertising materials: Required; appeal of denial allowed; effect.

- (a) No person shall go about the streets or other public places for the purpose of distributing any posters, handbills, cards, samples of any kind or other matter used for the purpose of advertising without first obtaining a permit from the chief of police to do so.
- (b) Upon the refusal of the chief of police to issue the permit, an appeal may be made to the municipal officers, who may grant the permit if they deem it advisable.
- (c) The permit authorized by this section shall not release the person to whom the permit is granted from the other provisions of this article.

(Code 1966, § 6-1-1.4)

Sec. 17-33. Information required on handbills.

No person shall distribute, deposit, scatter, hand out or circulate any handbill in any place unless such handbill has printed on the cover, front or back thereof, the following:

- (1) The name and address of the person who printed, wrote, compiled or manufactured the same; and
- (2) The name of the person who caused the same to be distributed; provided, however, that in the case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring the handbills shall also appear thereon.

(Code 1966, § 6-1-1.5)

Sec. 17-34. Contents of handbills not to be inflammatory.

No person shall, directly or indirectly, place, or cause the placement of, handbills which to men of ordinary sensitivity, arouse a sense of revulsion or disgust because the contents of such handbills are inflammatory with respect to, or tends to defame, vilify or otherwise denigrate, a group of people distinguished by race, ethnic background, nationality, religion or color.

(Code 1966, § 6-1-1.6)

Sec. 17-35. Time of distribution of materials restricted.

No person shall go about the streets or other public places for the purpose of distributing any posters, handbills, cards, samples of any kind or other matter used for the purpose of advertising after the time of sunset and before the time of the following sunrise.

(Code 1966, § 6-1-1.3)

Sec. 17-36. Attaching advertising material to vehicles; placing materials in vehicles.

No person shall attach any advertising material of any kind, such as handbills, cards or papers, to the door handle, windshield wiper or any portion of any motor vehicle parked or standing in any street or public place, nor shall any person deposit

any such material or samples of any kind within or upon any such vehicle so parked or standing.

(Code 1966, § 6-1-1.2)

Sec. 17-37. Affixing advertising materials to utility poles, etc.

No person shall attach, place, paint, write, stamp, paste or otherwise affix any sign, advertisement or other matter upon any electric light or public utilities pole, tree or fire hydrant, or on any bridge, pavement, sidewalk or crosswalk, public building or any property or thing belonging to the city or located in the public streets or other public places; provided, that this shall not be construed to prevent any public official from so doing for any public purpose.

(Code 1966, § 6-1-3.1)

State law reference(s)--Placing objects on utility poles, 17 M.R.S.A. § 2355.

Sec. 17-38. Permission of owner prerequisite to affixing advertising materials to houses, etc.

No person shall attach, place, paint, write, stamp, paste or otherwise affix any sign, advertisement or other matter upon any house, wall, fence, gate, post or tree without first having obtained the written permission of the owner, agent or occupant of the premises.

(Code 1966, § 6-1-3.2)

State law reference(s)--Advertising on fences and rocks, 17 M.R.S.A. § 2506.

Sec. 17-39. Littering streets with posters, handbills, cards, samples.

No person shall distribute, throw, drop or scatter in any street, public place or on any doorstep or in any doorway or entrance to any building any paper, pamphlets, posters, handbills, cards, samples of medicines, drugs or pills or other samples, or other matter used for the purpose of advertising in such a manner as to result in the littering of such areas.

(Code 1966, §§ 6-1-1.1, 11-1-5)

Sec. 17-40--17-49. Reserved.

ARTICLE III. ANTI-GRAFFITI ORDINANCE

Sec. 17-50. Purpose and Findings.

The purpose of this Section is to prevent the spread of graffiti in the City through measures reasonably calculated to deter graffiti and to encourage and facilitate rapid removal when it occurs.

The City Council makes the following finds in enacting this Section:

- (1) Graffiti is a form of vandalism defacing public and private property without the consent of the owner;
- (2) Graffiti creates visual pollution and blight that adversely affects the enjoyment and value of public and private property and causes citizens, businesses and the City to incur the cost of removal and repair;
- (3) Graffiti is a visual symbol of disorder and lawlessness. It contributes to a downward spiral of blight and decay, decreasing property values, lessening business viability and potentially adversely affecting tax revenues; and
- (4) There is substantial evidence that rapid removal of graffiti is an effective prevention strategy that discourages its return. In addition, there is substantial evidence that failure to promptly remove graffiti increases the likelihood that more graffiti will occur on the same site and on other nearby property.

(Ord. No. 7-07/08, 2/20/08; [Fiscal Note: Less than \$1000])

Sec.17-51. Definitions.

"Aerosol Paint container" means any container that is adapted or made for the purpose of applying aerosolized paint, or any other aerosolized substance capable of defacing property.

"Broad Tipped Marker" means any marker or similar implement that contains ink and has a flat or angled writing surface that, at its broadest width, exceeds one-eighth inch.

"Etching Cream" any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.

"Graffiti" means any inscription, word, figure, design, painting, writing, drawing or carving that is marked, etched, scratched, drawn, painted or otherwise applied to property without the prior authorization of the owner of the property regardless of the content or nature of the material used.

"Graffiti implement" means an aerosol paint container, a broad-tipped marker, gummed label, paint stick or graffiti stick.

"Minor" means a person under the age of eighteen.

"Owner" means the person listed on the Assessor's records for the City of South Portland as the owner of property.

"Paint Stick or Graffiti Stick" means any device containing a solid or liquid form of paint, chalk, wax, epoxy, or other similar substance that leaves a visible mark upon application to a surface.

"Property" means any real or personal property, including but not limited to any portion of any premises, structure, house, building, fence or vehicle.

(Ord. No. 7-07/08, 2/20/08; [Fiscal Note: Less than \$1000])

Sec. 17-52. Prohibited acts.

The following acts are prohibited:

- (a) Applying graffiti to any private or public property without the permission of the owner;
- (b) Soliciting or commanding another person to apply graffiti to any private or public property without the permission of the owner; or
- (c) Aiding or abetting or agreeing to aid or abet another person in planning to apply or applying graffiti to any private or public property without the permission of the owner.

Sec. 17-53. Prohibited possession of graffiti implements.

- (a) No person shall possess any graffiti implement under circumstances presumed to evidence an intent to violate the provisions of Section 17-52. A person is presumed to possess the Graffiti implement with an intent to if he or she possesses any Graffiti implement;
 - (i) In or on any part of a publicly-owned or privately-owned building, facility, park, walkway or trail, school ground, library, playground, swimming pool, recreational facility, right-of-way; or
 - (ii) Within fifty (50) feet of any underpass, overpass, bridge abutment, storm drain, or similar type of infrastructure.
- (b) It is a defense to enforce action under Subsection (a) of this Section that the Graffiti implement was:
 - (i) possessed on the property with consent of the Owner; or
 - (ii) possessed in a place where the implement was going to be used for a non-graffiti activity, including but not limited to an employment, school, home, church, art, or similar activity or possessed while enroute to or from such activity.

(Ord. No 7-07/08, 2/20/08; [Fiscal Note: Less than \$1000])

Sec. 17-54. Furnishing graffiti implements to minors prohibited.

No person, other than a parent or legal guardian, may sell, exchange, give, lend, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any of the following graffiti implements to any person under the age of eighteen (18) years without the written permission of the parent(s) or guardian of the minor aerosol paint container(s), graffiti stick(s), paint stick(s) or etching cream.

(Ord. No. 7-07/08, 2/20/08 [Fiscal Note: Less than \$1000])

Sec. 17-55. Rapid removal of graffiti.

Whenever the City Manager, or his or her designee, determines that graffiti is located on public or private property such that graffiti may be viewed by a person using any public right-of-way or other public property, the City Manager shall provide written notice to the Owner of said property that it is the policy of the City that Graffiti be removed from public or private property within 48 hours of receipt of such notice unless a correction plan otherwise is approved. The notice shall further state that if the property owner does not abate the Graffiti within ten (10) business days after notice, the City will proceed with nuisance enforcement according to Code of Ordinances Section 16-4 regarding declaration and abatement of nuisances.

(Ord. No. 7-07/08, 2/20/08; [Fiscal Note: Less than \$1000])

Sec. 17-56. Penalties.

- (a) Any person violating Section 17-52 shall:
 - (i) Pay a fine of not more than five hundred dollars (\$500) per violation;
 - (ii) Reimburse the property Owner for all costs reasonably incurred by the property Owner that are directly related to removal of the Graffiti; and

- (iii) Perform twenty-five (25) hours of community service.
- (b) Every parent or legal guardian having custody or control of a Minor who violates Section 17-52 shall be jointly and severally liable with the minor for the penalties set forth in Section 17-56 (a) (i) and (ii). For the purposes of this section, each act and each property is a separate violation.
- (c) Any person violating Section 17-53 shall pay a fine of two hundred fifty dollars (\$250) for the first violation and up to five hundred dollars (\$500) for subsequent violations and/or perform up to twenty-five (25) hours of community service.

(Ord. No. 7-07/08, 2/20/08 [Fiscal Note: Less than \$1000])

Sec. 17-57. Severability.

If any section, phrase, sentence or portion of this Article 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. 7-07/08, 2/20/08; [Fiscal Note: Less than \$1000])

Sec. 17-58. Effective date.

(Ord. No. 7-07/08, 2/20/08; [Fiscal Note: Less than \$1000])

This article shall become effective March 3, 2008.

Sec. 17-59--17-70. Reserved.

(Ord. No. 12-06/07, 4/18/07 [Fiscal Note: Less than \$1000])