

PARKS AND RECREATION*

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SOUTH PORTLAND CODE OF ORDINANCES

Chapter 18

PARKS AND RECREATION*

* **State law reference(s)**--Parks, trees and playgrounds, generally, 30 M.R.S.A. § 3801 et seq.

- Art. I. In General, §§ 18-1--18-16
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- Art. VI. Hinckley Park, §§ 18-70, 18-71
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- Art. VIII. Tobacco-Free Parks and Recreation Facilities, §§18-81--18-87

ARTICLE I. IN GENERAL

Sec. 18-1. Playing in parks.

No person shall engage or participate in any sports or games upon the premises at any city park which may result in personal injury to other persons.

(Code 1966, § 6-6-1.11; Ord. No. 15-74, 7-15-74)

Sec. 18-2. Swimming, wading in public parks.

No person shall swim, bathe or wade in any pool or body of water located upon any public park within the city, except that this restriction shall not apply to such activity at public beaches and swimming pools during hours when such use is permitted.

(Code 1966, § 6-6-1.16; Ord. No. 21-70, 8-3-70)

Sec. 18-3. Camping, sleeping in public parks, beaches, ponds.

No person shall sleep or camp in or upon any park, beach, pond or other recreational property owned by the city.

(Code 1966, § 6-6-1.17; Ord. No. 21-70, 8-3-70)

Sec. 18-4. Remaining on recreational property past nine p.m.

No person shall remain in or upon any park, beach, pond or other recreational property owned by the city from 9:00 p.m. to 6:00 a.m., except for the purpose of traveling across or through them. Nothing herein shall apply to any activity sponsored by the recreational department, the school department or duly licensed by the appropriate city authority.

(Code 1966, § 6-2-4; Ord. No. 21-70, 8-3-70, Ord. 14-01/02, 7/15/02 [Fiscal note: Less than \$1000])

Sec. 18-5. Use of public landing, ramp.

- (a) The public launching ramp is intended to be used primarily for the launching of recreational boats. Commercial boats may use the ramp only if the director of parks and recreation or his designee determine that such use does not unreasonably interfere with the launching of recreational boats. The city council may establish by order a schedule of fees for public use of the ramp.
- (b) The launching of boats from any equipment which may in the opinion of the director of parks and recreation or his designee, cause damage to the public ramp is prohibited.
- (c) The public float and landing is hereby restricted to the boating and landing from small craft only, and the mooring of small craft, storage of gear, or commercial use of same is expressly prohibited.
- (d) The boat ramp is intended for the launching of boats and may not be used for short-term or long-term storage of boats. Tying up or leaving any boat in the area is prohibited except when loading or unloading cargo and/or passengers, and except where otherwise posted by proper notice. The time limit for use of this ramp is thirty (30) minutes and no vessel shall tie to, or make use of this ramp for longer periods except under conditions determined by the Director of Parks & Recreation to be an emergency. Boats left or stored on the boat ramp property for longer than thirty minutes without the express permission of the Director of Parks and Recreation are subject to removal and storage off-site by the City. Before reclaiming a boat that has been removed and stored by the City, the owner shall pay to the City all fines due for violation of this provision and all costs associated with removal and storage,

including but not limited to the fine of \$250 per day established in subsection (h) below. Boats removed and stored which are not reclaimed within the statutory period for abandoned property or such other shorter time period as permitted by law may be sold by the City according to law.

- (e) No vehicles, trailers, campers, or the like shall be parked or left in the area adjoining the ramp during the hours properly posted in the area.
- (f) When approaching or leaving the area, the speed of all boats shall be reduced to head way speed, so as to provide full visibility and control and prevent their wash from being thrown onto or causing excessive rocking to other boats. "Head way speed" for the purpose of this section shall mean the slowest speed that a power boat may be operated and maintain steerage way, but in no case shall exceed six (6) miles per hour.
- (g) The director of parks and recreation is authorized to promulgate reasonable rules and regulations to carry out the intent of this section and to further govern the use of the public landing and the public launching ramp for the convenience and safety of the public.
- (h) Any person who violates a provision of this section or of any rule or regulation promulgated pursuant to subsection (g) shall be penalized by a fine of two hundred fifty dollars (\$250.00) and shall be responsible for the cost of repair or reconstruction should damage to the public landing or public launching ramp result from the violation. Each day or portion thereof a violation is permitted to exist shall constitute a separate violation.

(Code 1966, §§ 7-7-1, 7-7-2; Ord. No. 19-78, 10-2-78; Ord. No. 12-79/80, 12-3-79; Ord. No. 41-87/88, 5-2-88; Ord No. 11/99/00, 5/1/00, [Fiscal Note: Less than \$1000])

Sec. 18-6. Littering, animal waste in parks.

No person shall cause or permit any litter, debris, refuse, garbage, human or animal excrement or other objectionable wastes to be cast or deposited upon the premises of any park, beach, pond or other recreational property owned by the city. This prohibition shall not include the reasonable spreading of animal excrement or other fertilizer as part of the landscaping and maintenance activities of the parks department and other city employees or agents. Any person violating this section shall be subject to a fine of one hundred dollars (\$100.00) for the first offense; two hundred and fifty dollars (\$250.00) for a second offense; and five hundred dollars (\$500.00) for each violation thereafter.

Horses, mules, donkeys, ponies and jackasses are exempt from this section.

(Code 1966, § 6-6-1.11; Ord. No. 15-74, 7-15-74; Ord. No. 26-89/90, 6-4-90; Ord. No. 20-00/01, 4/18/01 [Fiscal Note: Less than \$1000])

Sec. 18-7. Possession and consumption of alcoholic beverages in recreational areas.

No person shall possess or consume any malt beverages or spirituous or vinous beverages upon any park, beach, pond or other recreational property owned by the city.

(Ord. No. 15-74, 7-15-74)

Sec. 18-8. Operation of motor vehicles on city property; restricted; exceptions.

No person shall operate any automobile, truck, bus, snowmobile, motorcycle, minibike or other motorized vehicle on any park, beach, or other property owned by the city, except that this restriction shall not apply to municipal employees engaged in emergency or maintenance operations, nor to activities sponsored or sanctioned by the parks and recreation departments.

(Ord. No. 15-74, 7-15-74; Ord. No. 26-78, 10-16-78)

Sec. 18-9. "Park" defined.

A "park" is defined as a public area of land, usually in a natural state, having facilities for rest and/or recreation, or providing public open space, shall include but not be limited to all beaches and the Greenbelt Walkway, and all of the parking facilities adjacent to those locations.

(Ord. No. 15-74, 7-15-74; Ord. No. 20-00/01, 4/18/01 [Fiscal Note: Less than \$1000]; Ord. No. 14-01/02, 7/15/02 [Fiscal Note: Less than \$1000])

Secs. 18-10--18-16. Reserved.

ARTICLE II. PARKS AND RECREATION DEPARTMENT*

* **Charter reference(s)**--Parks and recreation department, §§ 304, 308.

Sec. 18-17. Established.

There is hereby established a parks and recreation department in accordance with section 304 of the city charter.

(Code 1966, § 2-11-1)

Sec. 18-18. Functions and duties.

It shall be the functions and duties of the parks and recreation department:

- (1) To promote, organize and supervise a comprehensive municipal park and recreation program and administer the same in the interest of the entire community;
- (2) To supervise the recreational use of playgrounds, play fields, recreation centers, swimming pools, ball diamonds and such other park and recreational areas and facilities as may be made available to carry out the city's park and recreation program;
- (3) To conduct and supervise all forms of recreational, cultural or social activity that will employ the leisure time of the citizens in a wholesome and constructive manner.

(Code 1966, § 2-11-3)

Secs. 18-19--18-28. Reserved.

ARTICLE III. PARKS AND RECREATION DIRECTOR

Sec. 18-29. Position created.

The position of parks and recreation director is hereby created.

(Code 1966, § 2-11-2)

Sec. 18-30. Position included in classification and compensation plan.

The position of parks and recreation director shall be included in the personnel classification and compensation plan of the city.

(Code 1966, § 2-11-2)

Sec. 18-31. Appointment.

As provided by section 302.1 of the city charter, the parks and recreation director shall be appointed by the city manager on the basis of merit and fitness.

(Code 1966, § 2-11-2)

Sec. 18-32. Supervisory duties.

The parks and recreation director shall supervise the entire operation of the parks and recreation department.

(Code 1966, § 2-11-2)

Secs. 18-33--18-42. Reserved.

ARTICLE IV. RESERVED*

* **Editor's note**--Ord. No. 4-80/81, adopted July 21, 1980, repealed Art. IV, §§ 18-43--18-52, pertaining to the parks and recreation advisory board. Said article was derived from Code 1966, § 2-11-4; Ord. No. 8-73, adopted Feb. 21, 1973; and Ord. No. 15-74, adopted July 15, 1974.

Secs. 18-43--18-62. Reserved.

ARTICLE V. WILLARD BEACH*

* **Editor's note**--Ord. No. 15-74, adopted July 15, 1974, repealed Art. V, §§ 18-63--18-68, containing prohibitions on the use of Willard Park and derived from Code 1966, §§ 7-6-1--7-6-2.5, and reenacted Art. V, §§ 18-63--18-65, as set out herein.

Sec. 18-63. Landing, beaching and storing boats.

- (a) No person shall land, beach or store a power boat of any kind on Willard Beach during the period from Memorial Day to Labor Day.
- (b) Nothing in this section shall prohibit the landing or beaching of boats in distress or for the purpose of making emergency repairs, provided that in no case, shall such boat remain on Willard Beach for a period in excess of three (3) days.

(Ord. No. 15-74, 7-15-74)

Sec. 18-64. Transporting, breaking glass, crockery.

No person shall transport or break any glass or crockery bottle, dish or other glass or crockery receptacle of any type upon Willard Beach.

(Ord. No. 15-74, 7-15-74)

Sec. 18-65. Playing football, baseball.

No person shall engage in playing with a football or baseball upon Willard Beach.
(Ord. No. 15-74, 7-15-74)

Sec. 18-66. Repealed

(Ord. No. 16-76, 7-19-76; Ord. No. 14-01/02, 7/15/02 [Fiscal Note: Less than \$1000]; Ord. No. 9-08/09, 1/21/09 [Fiscal Note: Less than \$1000])

Cross reference(s)--Dogs generally, § 3-27 et seq.

Secs. 18-67--18-69. Reserved.

ARTICLE VI. HINCKLEY PARK

Sec. 18-70. Designation of park area.

Hinckley Park shall include those areas owned by the city as shown as Lot 54 on Map 19, Lots 65 and 79 on Map 20, and Lots 4A, 5A, 45A, 49 and 12 on Map 23 of the assessor's maps of the city.

(Ord. No. 16-78, 8-7-78)

Sec. 18-71. Hours of closing.

No person shall enter or remain in Hinckley Park at any time between 9:00 p.m. and 6:00 a.m. This section shall not apply to any public employees performing enforcement duties or duties of an emergency nature necessary in the scope of such employment. Any person found in violation of this section shall be subject to the penalty provisions of section 1-8 of this Code.

(Ord. No. 16-78, 8-7-78; Ord. No. 14-01/02, 7/15/02 [Fiscal Note: Less than \$1000])

ARTICLE VII: ESTABLISHMENT OF SOUTH PORTLAND LAND BANK**Sec. 18-72. Purpose.**

The City of South Portland recognizes that open space, parks, recreation areas and natural resources are desirable and beneficial to its citizens and provide South Portland residents and visitors with an unparalleled diversity of recreation and other outdoor opportunities during all seasons of the year and a quality of life unmatched in this State; that the continued availability of public access to these recreation and other outdoor opportunities and the protection of the scenic and natural environment are essential for preserving the City's high quality of life; that sensitive lands and resources may be threatened by the pace of development; and that public interest in the future quality and availability for all South Portland residents and visitors of lands for recreation and conservation is best served by additions of lands to the public domain. To further the acquisition and creation of such land and land uses, the City hereby establishes the City of South Portland Land Bank, which shall consist of voluntary donations of funds and/or property interests and the acquisition of property interests through voluntary negotiations to be used in accordance with this Article. Property and funds held by the Land Bank are not intended to supplant budgetary appropriations to the Parks and Recreation Department.

(Ord. 13-91/92, 3-16-92; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than \$1000])

Sec. 18-73. Management of the Land Bank.

In managing the Land Bank, the City may:

- (a) Purchase and acquire fee simple interests and any lesser interests, including conservation restrictions, development rights or easements, in any real property situated within the borders of the municipality, of the types set forth in Sec. 18-74, including any improvements on that real property, provided that all purchases or acquisitions are consistent with the purpose of this Article;
- (b) Accept gifts, including real or personal property interests or funds, to further the purposes of this Article;
- (c) Dispose of all or any portion of the real property interests held by it, subject to the Constitution and laws of the State of Maine, this Article, and other applicable provisions of the Code of Ordinances
- (d) Maintain, manage and improve land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural, historic and scenic resources of the land, including planting, pruning and cutting of trees and shrubs to manage and enhance natural systems and constructing nature trails, bird nest boxes and nature identification signs. Annual expenditure of land bank funds for maintenance, management and limited capital improvement of Land Bank conservation lands and improvements thereon shall not exceed 10% of the land bank fund balance at the conclusion of the prior fiscal year, unless this limitation is waived by the City Council to further the purposes of this Article. Any conditional gift or donation specifying a particular use or expenditure shall not be included in this calculation.

Any proposed acquisition or sale of any real property interest(s) and any proposed use of land pursuant to this article shall be referred to the Planning

Board for review and recommendation(s).

(Ord. 13-91/92, 3-16-92; Ord. #9-03/04, 10/6/03 [Fiscal Note: Less than \$1000]; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than \$1000])

Sec. 18-74. Types of land which may be acquired.

Land, interests in land and other real property interests to be acquired and held as part of the land bank must be situated within the boundaries of the municipality and may consist of any of the following types of land and interest in land:

1. Ocean, harbor, river, stream, lake or pond frontage and adjoining backlands;
2. Fresh or saltwater marshes, estuaries, flood plains and adjoining uplands;
3. Islands;
4. Land for future active or passive public outdoor recreational use, including hiking trails, bicycle paths, green belts and high elevations with a view or other visual corridors, and open space;
5. Aquifers, aquifer recharge areas and other ecologically fragile or significant property;
6. Properties with unique historical or geological characteristics or which are otherwise important to the community's cultural welfare;
7. Farmland or wildlife habitat;
8. Vacant parcels of land, vacant buildings and properties or buildings and properties in significant disrepair which may be reclaimed for the purpose of establishing natural areas for open space or park land.

(Ord. 13-91/92, 3-16-92)

Sec. 18-75. Maintenance of real property.

The City shall retain any real property interest acquired pursuant to this chapter predominantly in its natural, scenic or open condition, except as otherwise provided in this Article. The City shall not allow:

1. Construction or placing of buildings; roads, other than paths for pedestrian or bicycle use; signs; billboards; or other advertising utilities or other structures on or above the surface, except in furtherance of the purposes of this Article;
2. Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive material;
3. Removal or destruction of trees, shrubs or other vegetation, except where necessary for management purposes and to enhance natural systems or open-space uses;
4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, except limited grading

to enhance the open-space uses of the land;

5. Surface use except for purposes permitting the land or water area to remain predominantly in its natural, scenic or open condition;
6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation; or
7. Use of motorized vehicles, including recreational vehicles (RVs) and all-terrain vehicles (ATVs), except where used for appropriate maintenance purposes; or
8. Other acts or uses detrimental to the natural, scenic or open condition of the land or water areas.

The above restrictions may be waived by the City Council if the otherwise prohibited use is in the interest of conservation.

(Ord. 13-91/92, 3-16-92)

Sec. 18-76. Land Bank Fund.

The City shall meet the financial obligations of the Land Bank by drawing upon a municipal land bank fund to be set up as a separate revolving or sinking account within the City. Deposits into the fund shall include:

1. Any funds appropriated to be deposited into the fund by vote of the City Council;
2. Voluntary contributions of money or other liquid assets to the fund;
3. Interest from deposits and investments of the fund; and
4. Net proceeds from disposal of real property interests pursuant to Code of Ordinances Section 2-171 as follows:
 - (a) Sixty percent (60%) of the net proceeds from the sale of unimproved real property, unless waived by the City Council for good cause shown; and
 - (b) Thirty percent (30%) of the net proceeds from the sale of improved real property, unless waived by the City Council for good cause shown.
5. Any grant funds received on behalf of the Land Bank.
6. Subject to the annual budget process, an annual contribution of \$35,000 from the City's Capital Improvement Plan, provided that any such annual contribution that causes the land bank fund balance to exceed one million dollars (\$1,000,000) shall be reduced as necessary so as not to cause the land bank fund balance to exceed one million dollars (\$1,000,000).

All expenses lawfully incurred in carrying out this Article must be evidenced by proper vouchers and accounting practices. The City shall prudently invest available assets of the fund and all income from any investment shall accrue to the fund.

(Ord. 13-91/92, 3-16-92; Ord. No. 9-03/04, 10/6/03 [Fiscal Note: Less than \$1000]; Ord. No. 17-09/10, 7/19/10 [Fiscal Note: Less than \$1000])

Sec. 18-77. Records; Annual Report.

The City shall keep a full and accurate account of its actions, including a record as to when, from or to whom and on what account money has been paid or received relative to this Article, and as to when, from or to whom and for what consideration real property interests have been acquired, improved or disposed of. The City shall report annually all acquisitions, improvements or dispositions of real property interests during the preceding year and a summary of disbursements from the land bank fund, which document shall be included in the city's annual report.

(Ord. 13-91/92, 3-16-92)

ARTICLE VIII. TOBACCO-FREE PARKS AND RECREATION FACILITIES

Sec. 18-81. Title.

This article shall be known as the "City of South Portland Tobacco-Free Parks and Recreation Facilities/School Bus Stops Ordinance."

(Ord. 4-16/17, 10/3/16 [Fiscal Note: Less than \$1000])

Sec. 18-82. Purpose.

This ordinance is enacted to protect, preserve, and promote the health, safety and welfare of the residents and visitors that use the City of South Portland's parks, beaches, outdoor recreation facilities, and school bus stops. The purpose of this ordinance is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment.

(Ord. 4-16/17, 10/3/16 [Fiscal Note: Less than \$1000])

Sec. 18-83. Definitions.

Electronic smoking device means a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen.

Smoking means carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. "Smoking" includes the use of an electronic smoking device.

Tobacco products means any of the following: (1) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, or snuff; or (2) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic smoking device. "Tobacco product" does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

(Ord. 4-16/17, 10/3/16 [Fiscal Note: Less than \$1000])

Sec. 18-84. Tobacco use prohibited.

a) It shall be unlawful for any person to use tobacco products at or within 20 feet of all parks, beaches and outdoor recreation facilities owned and/or maintained by the City, including, but not limited to, the following:

Anthoine Creek Park
Bug Light Park
Clarks Pond Trail System
Firefighters Park
Ge Erskine Park
Greenbelt Walkway
High Street Park
Hinckley Park
Fisherman's Point Park
Legere Park
Legion Square Park
Mill Creek Park
Mountain View/Nelson Park

Pierce Street Park
School Street Park
Spring Point Shoreway
Thomas Knight Park
Wainwright Recreation Complex
Wilkinson Park
Willard Beach
Willard Park

b) It shall be unlawful for any person to use tobacco products at or within 20 feet of all designated school bus stops within the City limits. The designated school bus stops are posted annually on the City of South Portland School Department website.

c) Nothing in this ordinance shall prohibit smoking on privately owned residential property.

(Ord. 4-16/17, 10/3/16 [Fiscal Note: Less than \$1000]; Order 9-17/18, 7/10/17 [Fiscal Note: Less than \$1000])

Sec. 18-85. Signage.

The Parks and Recreation Department shall work with the Public Works Department to post signage notifying the public of this prohibition at or near the parks, beaches and outdoor recreation facilities specified herein as well as in such other locations that, in its sole discretion, the Parks and Recreation Department deems necessary to notify the public of this ordinance.

Sec. 18-86. Enforcement.

The South Portland Police Department shall investigate and enforce the provisions contained in this ordinance. Nothing in this Ordinance shall prevent the enforcement agent from obtaining voluntary compliance by way of warning, notice or education.

(Ord. 4-16/17, 10/3/16 [Fiscal Note: Less than \$1000])

Sec. 18-87. Penalties.

Any person in violation of any provision of this ordinance shall be subject to a civil penalty and upon adjudication thereof shall be fined in the amount of one hundred dollars (\$100.00) for the first offense; two hundred and fifty dollars (\$250.00) for a second offense; and five hundred dollars (\$500.00) for each violation thereafter.

(Ord. 15-10/11, 6/20/11 [Fiscal Note: Less than \$1000]; Ord. 4-16/17, 10/3/16 [Fiscal Note: Less than \$1000])