

WEAPONS AND EXPLOSIVES*

ARTICLE I. IN GENERAL

ARTICLE II. DISPOSITION OF HAND GUNS*

ARTICLE III. BLASTING

SOUTH PORTLAND CODE OF ORDINANCES

Chapter 26

WEAPONS AND EXPLOSIVES*

* **Cross reference(s)**--Permit required to possess, store, sell or otherwise dispose of explosives, ammunition, § 8-44; permits to handle and dispose of explosives, blasting agents and ammunition, § 8-45; vehicles transporting explosives to be identified, § 8-46; bond required when giving fireworks display, § 8-47; marine oil terminal and tank vessel fire protection, § 8-64 et seq.; permits to handle or use flammable liquids, §§ 14-3, 14-32; licensing provisions relative to fireworks displays, §§ 14-3, 14-34; automobile service stations, § 14-75 et seq.

Art. I. In General, §§ 26-1--26-20

Art. II. Disposition of Hand Guns, §§ 26-21--26-25

Art. III. Blasting, §§ 26-26--26-37

ARTICLE I. IN GENERAL**Sec. 26-1. Disposition of confiscated weapons.**

Every police officer upon making any arrest and taking a weapon used in violation of this chapter, state law or federal law shall deliver the same to the chief of police to be held by him until the final determination of a prosecution for the offense.

(Code 1966, § 6-4-2.3.3; Ord. No. 2-70, 1-19-70; Ord. No. 4-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

Sec. 26-2. Toy guns, cannons, etc., not to be sold, kept for sale or discharged; applicability of section.

(a) No person shall, at any time, sell or keep for sale, discharge or set off anywhere within the limits of the city, or have in his possession for such purpose, any toy pistol, toy gun, toy cannon or cane that can be used to fire a blank cartridge or potash and sulfur pellet, any fire balloon, blank cartridge or firecrackers.

(b) This section shall not apply to the use of signal torpedoes by railroads in the operation of their trains, or to paper cap pistols or to paper caps, nor shall anything in this section be construed as preventing the public display of fireworks as provided for in section 1434.

(Code 1966, § 6-4-1.2; Ord. No. 22-67, 12-18-67)

Sec. 26-3. Selling, displaying switchblade knives prohibited.

No person shall sell, offer for sale or display any knife having the appearance of a pocketknife, the blade of which can be opened by a flick of a button, pressure on the handle or other mechanical devices.

State law reference(s)--For similar provisions, see 17-A M.R.S.A. §1055.

(Code 1966, § 6-4-2.2; Ord. No. 4-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

Sec. 26-4. Certain weapons not to be purchased from, furnished to minors, etc.

No person shall sell to or purchase from a minor under the age of eighteen (18) years any so-called martial arts star or knun chuck, nor shall any person possess either a martial arts star or knun chuck at any age except for use in martial arts programs.

(Code 1966, § 6-4-2.7; Ord. No. 19-83/84, 3-19-84; Ord. No. 4-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

Sec. 26-5. Display of certain weapons prohibited.

No pawnbroker, secondhand dealer or other person engaged in business in the city shall display or place on exhibition in any show window or other window facing upon any street any brass or metal knuckles, any club loaded with lead or other weight or any blackjack or billy club.

(Code 1966, §§ 6-4-2.3, 6-4-2.3.2, 6-4-2.4, 6-4-2.5; Ord. No. 2-70, 1-19-70; Ord. No. 4-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

Sec. 26-6. Firing, discharging weapons in city; possession of certain types of weapons in city.

(a) No person shall, without a permit from the chief of police, fire or discharge any revolver, gun, fowling piece, cannon or firearm within the limits of the city; provided, however, that this section shall not apply to the use of such weapons at any military exercise or review or in the lawful defense of one's person, family or property.

(b) No person shall have in his possession in or on any street, way, sidewalk, park or other public place any bow and arrow, BB gun, air gun of any kind, gas pellet gun of any kind, spring gun, slingshot or any other instrument or weapon made for the purpose of throwing or projecting missiles of any kind by any means whatsoever within the city, except in the performance of official law enforcement duties, at authorized shooting galleries or ranges or when en route to or from the same, or during transport within an enclosed container, or in self-defense. In addition, no person shall shoot with or use the types of weapons set forth in this subsection in or on any street, way, sidewalk, park or other public place whatsoever within the city, except in the performance of official law enforcement duties, at authorized shooting galleries or ranges, or in self-defense.

(Code 1966, § 6-4-1.1; § 6-4-2.1; Ord. No. 4-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

State law reference(s)--Carrying concealed weapons, 25 M.R.S.A. § 2031.

Sec. 26-7. Permit required to use explosives, blasting agents.

No person shall use explosives or blasting agents within the limits of the city without first having obtained a permit from the director of public works.

(Code 1966, § 7-3-3; Ord. No. 4-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

Sec. 26-8. Placing explosives on streets, railroad tracks prohibited.

No person shall place upon any street or railroad track any cracker, cap or other explosive with the intent that it shall be discharged or exploded by the passage of any vehicle.

(Code 1966, § 6-4-1.3; Ord. No. 4-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

Secs. 26-9--26-20. Reserved.

ARTICLE II. RESERVED

ARTICLE III. BLASTING**Sec. 26-26. Purpose.**

This ordinance is intended to minimize negative impacts from blasting associated with construction or other activities. Such impacts include but are not limited to airborne shock waves, flying debris, ground vibrations, and dust which are physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life, property, and the conduct of business. It is also intended to prevent damage to geologic and environmental resources upon which depend such features as wells and wildlife.

Sec. 26-27. Code Compliance

Blasting in the City of South Portland shall be conducted in compliance with all pertinent sections of the South Portland Code of Ordinances and, except as superseded by the provisions of this Article, "The BOCA National Fire Prevention Code, Eleventh Edition, 1999: Chapter 30" and "NFPA 495 Explosive Materials Code, 2001 Edition." At least one copy of each is on file in the office of the City Clerk. In the case of a conflict with another provision, the stricter provision shall apply.

Sec. 26-28. Definitions

Blasting: any activity entailing the use of explosives for the purpose of producing an explosion to demolish structures or to fragment rock for mining, quarrying, excavation, or construction. Related terms are as defined in "The BOCA National Fire Prevention Code" and "NFPA 495 Explosive Materials Code."

Small Blasting Project: Blasting projects involving less than fifty (50) cubic yards of material to be removed, or utility trench work in an accepted public right of way, or repair and replacement of existing public utility infrastructure, including City or Portland Water District infrastructure.

Medium Blasting Project: Blasting projects involving between fifty (50) and three hundred (300) cubic yards of material to be removed.

Large Blasting Project: Blasting projects involving more than three hundred (300) cubic yards of material to be removed.

Sec. 26-29. Permit Required

Prior to any blasting within the City of South Portland, a permit must be obtained from the Code Enforcement Officer. Prior to granting the permit, the Code Enforcement Officer shall request comments on the application from the Fire Department; review by other departments may be sought if appropriate. Permit applications shall include the following information:

(a) Small and Medium Blasting Projects.

Names, addresses, and contact numbers for the applicant, blaster, property owner, and general contractor, if any.

Location(s) of proposed blasting activity.

Estimated number of cubic yards of material to be removed by blasting.

Planned number of blasts.

A description of the project for which the blasting is being undertaken.
Evidence of bonding and insurance.
Qualifications of personnel performing blasting and evidence of certification to conduct blasting in the State of Maine.

(b) Large Blasting Projects

In addition to the information above in Sec. 26-29(a), the following are required:

A map to scale indicating the names and addresses of owners of abutting properties, the location of structures on abutting properties, location of subsurface utilities or other underground facilities within 600 feet of the blasting location(s), and of any wells within 1,000 feet of a blasting location.

Qualifications of personnel performing blasting and evidence of certification to conduct blasting in the State of Maine.

Description of the blasting plan.

Any other studies or information deemed necessary by the Code Enforcement Officer or Planning Board, which may include, but are not limited to:

- Pre-Blast assessment.
- Hydrogeologic studies.
- Test wells.
- Monitoring program.

Sec. 26-30. Notification

The blaster shall notify all property owners within two hundred and fifty (250) feet of the blast area for small blasting projects; within five hundred (500) feet for medium blasting projects; and within six hundred (600) feet for large blasting projects. Notice shall be by first class mail sent at least ten (10) calendar days prior to the intended date of commencement of blasting operations. Additional notification may be required by the Code Enforcement Officer.

The notice referenced above shall include the blasting schedule, a description of the blasting signals to be used during the operation, an address and telephone number where property owners may request further information and notification, a copy of this Article, and information about the preblast survey required under Sec. 26-31. Any property owner requesting further information shall do so in writing to the person conducting the blasting operation with a copy to the City Code Enforcement Officer.

For any blasting operation, the blaster shall notify the Fire Department and the Code Enforcement Office on the day of the blasting at least four (4) hours prior to the detonation(s). The notice may be given orally, but the burden of proof is on the blaster as to whether the notice was received. The notice will include the time (within 30 minutes), location, amount of explosives, and name and business address of the blaster.

Where an excavator encounters a small amount of ledge when doing a street opening or in another similar small blasting project situation where advance notice is not reasonably feasible, the City Engineer can modify as well as waive the notice requirements.

Sec. 26-31. Preblast Survey

(a) Small and Medium Blasting Projects

The applicant will hire an independent firm to perform pre-blast surveys on all structures within two hundred and fifty (250) feet of the blast area for small blasting projects and within five hundred (500) feet for medium blasting projects.

The survey will include a video documentation of any pre-existing conditions on the inside and outside of each structure.

(b) Large Blasting Projects

The applicant will hire an independent firm to perform pre-blast surveys of all structures located within six hundred (600) feet of the blast area. The Code Enforcement Officer may designate alternate preblast survey distances. The survey shall be done promptly upon notifying the property owners per Sec. 26-30. The Code Enforcement Officer shall have the authority to permit a property to be excluded from the survey upon the applicant either submitting a letter from the property owner waiving the owner's right to a survey or providing evidence that the property owner cannot be contacted despite thorough efforts to do so.

The surveyor shall determine the condition of the dwelling or structure and shall document any existing damage and other physical factors that could reasonably be affected by the blasting. The surveyor shall examine the interior as well as the exterior structure and shall document any damage by means of photographic or video recording methods. Structures such as pipelines, cables, transmission lines, and cisterns, wells, and other water systems warrant special attention; however, the assessment of these structures may be limited to surface conditions and other readily available data. The interior of existing sanitary sewer and storm sewer infrastructure, identified by the staff of Water Resource Protection, shall be surveyed by means of a permanently recorded closed circuit video camera both prior to blasting operations and after blasting has been concluded in the area of the existing sewer.

The surveyor shall prepare a written report of the survey and provide copies of it at least seven (7) calendar days prior to the commencement of blasting to the blaster and the Code Enforcement Officer. . All surveys shall be conducted by personnel regularly engaged in performing preblast surveys.

The preblast survey shall not commence until the Code Enforcement Officer has reviewed the survey method for completeness and sufficiency.

Sec. 26-32. Inspection and Monitoring

The Code Enforcement Officer may conduct tests and observe any authorized blasting operations and may also order that additional ground vibration and airblast overpressure measurements using approved instrumentation be made by the blaster to ensure the limits specified in "NFPA 495 Explosive Materials Code" are not exceeded.

Sec. 26-33. Records

Persons responsible for medium and large blasting projects shall maintain a record of each blast. All records shall be retained at least five (5) years following cessation of the blasting operation and shall be available for inspection by the Code Enforcement Officer and shall contain the following minimum data:

(a) Medium Blasting Projects

Name of person responsible for the blasting operation.
 Location, date(s), and time of blast.
 Name of blaster.
 Type of material blasted.
 Number of holes, burden and spacing.
 Diameter and depth of holes.
 Types of explosives used.
 Amount of explosives used.
 Whether mats or other protections were used.

(b) Large Blasting Projects

In addition to the information above in Sec. 26-33(a), the following are required:
 Maximum amount of explosives per delay period of eight (8) milliseconds or greater.
 Maximum number of holes per delay period of eight (8) milliseconds or greater.
 Method of firing and type of circuit.
 Weather conditions (including such factors as wind direction, cloud cover, etc.).
 Height or length of stemming.
 Type of detonators used and delay periods used.
 Seismograph and airblast readings when measured, and from where measured.

Sec. 26-33. Appeal of denial by Code Enforcement Officer

Where the Code Enforcement Officer has denied a blasting permit under this Article, the applicant may appeal the denial to the City Council within 30 days of the Code Enforcement Officer's decision by filing a written notice of appeal with the City Clerk. The City Council may waive the Article's requirements if:

(a) the activity or operation will involve five (5) or fewer blasts at a single site, and cannot be done in a manner that would comply with this Article; and

no other reasonable alternative is available to the applicant; and

the applicants represent, and the Code Enforcement Officer finds, that the proposed blasting will not have an adverse impact on the public health or safety or damage property in the neighborhood.

Sec. 26-35. Conditions

Upon issuance of any blasting permit, the Code Enforcement Officer may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the neighborhood or community.

Sec. 26-36. Penalties

Any material misstatement or omission of information required by this Article or the violation of any condition attached to a permit granted under this Article shall constitute a land use violation and be penalized in accordance with Title 30-A, M.R.S.A. Section 4452.

Sec. 26-37. Severability

If any provision of this ordinance is declared unconstitutional or held invalid, it shall not affect any other section, clause, or provision thereof, but the same shall remain in full force and effect.

(Ord. No. 20-03/04, 3/15/04 [Fiscal Note: Less than \$1000])