

Chapter 24

POLICE*

- Art. I. In General, §§ 24-1—24-25**
Art. II. Alarm Systems Regulation, §§ 24-26—24-34

**ARTICLE I.
IN GENERAL**

Sec. 24-1. Composition; powers generally.

There is hereby established a police department which shall be under the charge of the chief of police and which shall consist of the chief of police, six (6) captains, eleven (11) lieutenants, as many sergeants and regular patrolmen as may be deemed necessary by the board of aldermen and a reserve force of not over ten (10) men. The chief of police and all other officers and members of the department shall have all the powers of constables except the power of serving and executing civil process. (Rev. Ords. 1973, § 17-1; Ord. No. 36, 1-6-75; Ord. No. 288, 7-10-78)

Sec. 24-2. Place of residence of members.

Members of the police force shall reside within the cities of Newton or Waltham or the towns of Brookline, Needham, Watertown, Wellesley or Weston or at a place within the City of Boston which is not more than three (3) miles from the city. (Rev. Ords. 1973, § 17-2)

Sec. 24-3. Work schedule.

(a) A work schedule shall be established for all members of the uniform branch of the police force including those on temporary appointments, whereby each member will work four (4) consecutive days and have two (2) consecutive days off without loss of pay on a continuous rotating basis, except that the chief of police or other officer for the time being performing the duties of the chief may make the following exceptions to the above:

- (1) Such members of the uniform branch who are on particular assignments or routes where, in the determination of the chief of police or other officer for the time being performing the duties of the chief, fixed days off are required shall be entitled to receive the same number of days off without loss of pay as are provided for the members of the uniform branch, such days to be assigned per year at the discretion of the chief of police.
- (2) Whenever the chief of police or other officer for the time being performing the duties of the chief shall determine that the public interest or the needs of the department so require, he shall suspend the taking of such days off by any or all members of the force, but in the event of such suspension, compensatory days off

***Cross references**—General penalty for ordinance violation, § 1-6; weekly reports of junk dealers required to be filed with police department, § 17-84; motor vehicles and traffic, Ch. 19; offenses and miscellaneous provisions, Ch. 20.

State law references—Constables generally, G.L. c. 41, § 91, et seq.; general power and duties of police, G.L. c. 41, § 98

Annotation—City has authority to abolish positions in police department, but may not do so without complying with notice and hearing requirements of G.L. c. 31, § 42A, now substantially contained in c. 31, § 43, Cullen v. Mayor of Newton, 308 Mass. 578, 32 N.E.2d 201 (1941).

shall be given as soon as, in the opinion of the chief of police or other officer for the time being performing the duties of the chief, the public interest shall permit.

(b) The work schedules of the members of the nonuniform branch of the police force shall be designated by the chief of police or other officer for the time being performing the duties of the chief; provided, however, they shall be entitled to receive the same number of days off without loss of pay as are provided for members of the uniform branch, such days to be assigned per year at the discretion of the chief of police.

(c) Provided, however, that all of the work schedules herein established shall require each full-time member of the police force, including those on temporary appointments, to work no less than forty (40) hours per week, less allowance for holidays, vacations and approved special leaves that are in effect as of September 11, 1972. (Rev. Ords. 1973, § 17-3)

Sec. 24-4. Special police.

The chief of police may appoint, subject to the approval of the mayor, special police officers to serve for one year and shall designate the locality in which the duties of each such special police officer shall be performed. While performing such duties special police shall have all the powers of constables, except the power of serving and executing civil process. Such special police officers shall receive no compensation from the city. (Rev. Ords. 1973, § 17-4)

Sec. 24-5. Auxiliary school patrol.

The chief of police may appoint, subject to the approval of the mayor, special police officers to be known as the Newton Auxiliary School Patrol who shall be paid when actually employed by the order of the chief of police. In the enforcement of chapter 90 of the General Laws and all city ordinances relating to the operation, standing and use of vehicles only, such special officers shall have all the powers of a constable, except the power of serving and executing civil process. Such special police officers shall obey all lawful orders of the chief of police and be subject to all the rules and regulations of the police department not inconsistent with their authority and duties. (Rev. Ords. 1973, § 17-5)

Cross reference—Newton community education program, Ch. 2, Art. VI, Div. 2

Sec. 24-6 Police Retiree Detail Patrol

The mayor may appoint, at the recommendation of the police chief and as the police chief deems necessary, retired Newton police officers as special police officers, to be known as the Newton Police Retiree Detail Patrol, to perform police details or any duties arising therefrom or during the course of police detail work, whether or not related to the detail work, subject to the following requirements and conditions. Special police officers appointed under this section shall be paid for performing assigned details at the same rate as regular police officers performing assigned details.

(a) The retired police officers shall have been regular Newton police officers and retired from Newton based on superannuation. Notwithstanding the maximum age restrictions applied to regular Newton police officers under chapter 32 of the General Laws, retired police officers shall be eligible to serve as special police officers under this section until they reach the age of 70.

(b) Prior to appointment under this section, a retired Newton police officer shall pass a medical examination by a physician or other certified professional chosen by the City to determine whether the retired Newton police officer is capable of performing the essential duties of a special police officer under this section, the cost of which shall be borne by the retired Newton police officer.

(c) Special police officers appointed under this section shall not be subject to chapter 31 of the General Laws, section 99A of chapter 41 of the General Laws, chapter 150E of the General Laws, or chapter 151A of the General Laws. Special police officers appointed under this section shall not be eligible for special leave, vacation, or other benefits enumerated in article II of chapter 2 of these ordinances.

(d) Special police officers shall, when performing the duties under this section, have the same power to make arrests and perform other police functions as do regular police officers of the City of Newton.

(e) Special police officers shall be appointed for an indefinite term, subject to removal by the mayor or the chief of police at any time with a 14 day written notice.

(f) The workweek for special police officers appointed under this section shall be seven (7) consecutive twenty-four (24) hour periods, for a total of one hundred and sixty-eight (168) hours, which shall commence at 8:00 A.M. at the start of each Monday of the calendar week. In no case shall any special police officer appointed under this section perform police details or any duties arising therefrom in excess of forty (40) hours in any given workweek.

(g) Special police officers appointed under this section shall be subject to the rules and regulations, policies and procedures and requirements as the chief of police and the mayor may impose from time to time, including, but not limited to restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications and requirements regarding uniforms and equipment. Compliance with all requirements will be at no cost to the City of Newton. Special police officers appointed under this section shall not be subject to section 96B of chapter 41 of the General Laws.

(h) Special police officers appointed under this section shall be sworn before the city clerk of the City of Newton who shall keep a record of all such appointments.

(i) Special police officers appointed under this section shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under section 111F of chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks before the incapacity. In no event shall payment under section 111F of chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under section 111F of chapter 41 shall terminate in accordance with section 111F of Chapter 41 or when a special police officer appointed under this section reaches the age of 70, whichever occurs sooner. Special police officers appointed under this section shall not be subject to section 85H or 85H 1/2 of chapter 32, nor eligible for any benefits pursuant thereto.

(j) Appointment as a special police officer under this section does not entitle that person to assignment to any detail.

(k) Retired Newton police officers serving as special police officers under this section shall be subject to the limitations on hours worked and on earnings restrictions as provided in paragraph (b) of section 91 of chapter 32 of the General Laws. (Ord. No. A-45, 09-15-14; Ord. No. A-86, 10-17-16)

Sec. 24-7. Appointment of constables.

(a) The mayor shall appoint, with the consent of the board of aldermen, constables to hold office for terms not exceeding three (3) years unless they resign or are removed by the mayor with the consent of the aldermen. Consent of the aldermen shall be defined to be a majority of those present and voting.

(b) Those constables who were appointed under chapter 135 of the Acts of 1900 of the Commonwealth of Massachusetts are hereby reappointed for life unless they resign or are removed by the mayor with the consent of the board of aldermen. (Rev. Ords. 1973, § 17-6)

State law reference—Appointment of constables, G.L. c. 41, § 91

Sec. 24-8. Pay for court appearances in certain cases.

(a) Members of the police force required to attend court as witnesses in criminal cases during times when they would otherwise be off duty shall be paid at their regular hourly rate of pay for the period of such attendance as follows:

- (1) In the superior court their witness and travel fees shall be deemed to cover their time and expense of travel to and from the courthouse, and they shall be paid for their entire period of attendance while the court is in session.
- (2) In the district court their witness fee shall be deemed to cover their first hour of attendance at court, and they shall be paid for their entire period of attendance in excess of one hour a day while the court is in session.

(b) For the purpose of this section the hourly rate of pay of a member of the police force shall be deemed to be their annual rate of pay divided by two thousand and eighty (2,080) hours. To qualify for payment hereunder a member shall submit to the chief of police such evidence of his court attendance as the chief may reasonably require, which may include a statement by such member under oath or subject to the penalties of perjury. (Rev. Ords. 1973, § 17-7)

Sec. 24-9. Duties of patrolmen.

The patrolmen, during such hours as the rules and regulations of the police department prescribe, shall make the rounds in and about such streets, lanes, principal inhabited places and other parts of the city as the chief of police shall direct to prevent danger by fire, to see that order is kept and that all disturbances and disorders are prevented and suppressed, and to perform such other duties as the chief of police shall direct. They shall take notice of all obstructions, nuisances and defects in the streets and, if authorized, shall forthwith remove the same when practicable. They shall notice every streetlamp not lighted or burning at the proper time, or which is unclean or gives insufficient light, and shall forthwith report thereon, and also on any other matters affecting the health or safety of the public, to the chief of police; and they shall faithfully execute and obey all orders of the chief of police and of the officer who, in his absence, shall be charged with his duties. (Rev. Ords. 1973, § 17-8)

Sec. 24-10. Duties in case of accidents.

The members of the police force shall immediately make a careful examination of every case of accident or personal injury or injury to property coming within their notice, shall secure the names of all witnesses thereto, and make a full report thereof to the chief of police. The chief of police shall forthwith furnish the city solicitor with a full report upon such cases, together with the names of the witnesses. (Rev. Ords. 1973, § 17-9)

Cross reference—Reports by persons involved in accidents, Ch. 19, Art. I, § 19-7

Secs. 24-11—24-25. Reserved.

**ARTICLE II.
ALARM SYSTEMS REGULATION**

Sec. 24-26. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future. The word "shall" is always mandatory and not merely directory.

Alarm system means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a one hundred and ten (110) volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this article.

Alarm user or *user* means any person on whose premises an alarm system is maintained within the city except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this article are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "alarm system", as that term is used in this article, and shall be subject to this article.

Automatic dialing device refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

Central station means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.

Communications console means the instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.

Direct connect means an alarm system which has the capability of transmitting system signals to and receiving them at the Newton police department communication center.

False alarm means:

- (1) The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents;
- (2) Any signal or oral communication transmitted to the police department requesting, or requiring, or resulting in a response on the part of the police department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises.

Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

Interconnect means to connect an alarm system to a voicegrade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

Police chief means the chief of police of the city or his designated representative.

Police or police department means the city police department, or any authorized agent thereof.

Public nuisance means anything which annoys, injures or endangers the comfort, repose, health or safety of a considerable number of persons or of any community or neighborhood. (Rev. Ords. 1973, § 17-10; Ord. No. 178, 12-6-76; Ord. No. 214, 5-16-77)

Cross references—Rules of construction and definitions generally, § 1-3; use of police signal boxes restricted, § 10-1 and § 23-17

State law reference—Interference with police signal systems, G.L. c. 268, § 32

Sec. 24-27. Administrative rules.

The police chief may promulgate such rules as may be necessary for the implementation of this article. (Rev. Ords. 1973, § 17-11; Ord. No. 176, 12-6-76)

Sec. 24-28. Automatic dialing devices—Interconnection to police department.

(a) Automatic dialing devices may be interconnected only to telephone numbers at the police department as are specifically designated to receive such calls by the police department.

(b) By December 31, 1977, all dialers shall be reprogrammed to interconnect as indicated in this article. (Rev. Ords. 1973, § 17-12; Ord. No. 176, 12-6-76; Ord. No. 214, 5-16-77)

Sec. 24-29. Same—Intermediary services.

Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:

- (1) A central station;
- (2) An answering service; or
- (3) Any privately-owned or privately-operated facility or terminal. (Rev. Ords. 1973, § 17-13; Ord. No. 176, 12-6-76)

Sec. 24-30. Direct connections to police department.

(a) Alarm systems may be connected to the communications console in the police department.

(b) In accordance with the normal bidding practices in effect in the city, the purchasing agent shall have the authority to request bids from alarm companies in order to furnish, at no cost to the city, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the police department. Each of the said bids shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console. Such services shall be set forth in the form of a written contract between the alarm company and each alarm user. The provisions of this paragraph (b) relate solely to the aforementioned communications console, connections to the said console by alarm users, and fees and charges related to the installation and maintenance of the console. Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance and/or servicing of the alarm system to be installed on his premises.

(c) The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line between the alarm user's premises and the alarm-receiving equipment at the police department and for furnishing the appropriate interface equipment, if required, in order to provide an input signal which is compatible with the receiving equipment used to operate the communications

console.

(d) The provisions of section 24-33 of this chapter concerning false alarms shall apply to all alarm users or persons having direct connect systems, except municipal, county and state agencies and religious organizations. (Rev. Ords. 1973, § 17-14; Ord. No. 176, 12-6-76)

Sec. 24-31. Control and curtailment of signals emitted by alarm systems.

(a) Every alarm user shall submit to the police chief the names and telephone numbers of at least two (2) other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed.

(b) All alarm systems directly connected to the police station may be equipped with a test device which will give a ten-second delay or longer prior to alarm system activation in order to warn the alarm user of an open alarm circuit.

(c) All alarm systems installed after July 1, 1977, which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within twenty (20) minutes after activation of the alarm system.

(d) Any alarm system which emits a continuous or intermittent signal for a period of time in excess of thirty (30) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (a) of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a signal, the police chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section in an effort to abate the nuisance.

The police chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made. In the event that the police chief is unable to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the police chief is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance. If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property:

- (1) Shall not conduct, engage in or undertake any search, seizure, inspection or investigation while he is upon the property;
- (2) Shall not cause any unnecessary damage to the alarm system or to any part of the home or building; and
- (3) Shall leave the property immediately after the audible signal has ceased.

After an entry upon property has been made in accordance with this section, the police chief shall have the property secured, if necessary. The reasonable costs and expenses of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed two hundred dollars (\$200.00). Within ten (10) days after abatement of a nuisance in accordance with this section, the alarm user may request a hearing before the board of aldermen and may present evidence showing that the signal emitted by his alarm system was not a public nuisance at the time of the abatement; that unnecessary damage was caused to his property in the course of the abatement; that the costs of the abatement should not be assessed to him; or that the requirements of this section were not fulfilled. The board shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to his property necessitated by the abatement, or excuse the alarm user from paying the costs of

abatement. (Rev. Ords. 1973, § 17-15; Ord. No. 176, 12-6-76; Ord. No. 214, 5-16-77; Ord. No. V-64, 2-5-96; Ord. No. V-215, 12-21-98)

Sec. 24-32. Testing of equipment.

No alarm system designed to transmit emergency messages directly to the police department shall be worked on, tested or demonstrated without obtaining permission from the police chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the police department. An unauthorized test constitutes a false alarm. (Rev. Ords. 1973, § 17-16; Ord. No. 176, 12-6-76)

Sec. 24-33. False alarms.

(a) When emergency messages are received by the police department that evidence false alarms, the police chief shall take such action as may be appropriate under paragraphs (b), (c), (d) and (e) of this section, and, when so required by the terms of the aforementioned paragraphs, order that use of an alarm system be discontinued.

(b) After the police department has recorded three (3) separate false alarms within the calendar year from an alarm system, the police chief shall notify the alarm user, in person, by telephone or by mail, of such fact and require the said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, on the basis of absence from the city, or on any other reasonable basis, requests an extension of time for filing the report, the police chief may extend the fifteen-day period for a reasonable period. If the said user fails to submit such a report within fifteen (15) days or within any such extended period, the police chief shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the police chief's order.

(c) In the event that the police chief determines that a report submitted in accordance with paragraph (b) of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the police chief shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the police chief's order.

(d) In the event that the police department records five (5) false alarms within the calendar year from an alarm system, the police chief may order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected. In the event that the police department records eight (8) false alarms within the calendar year from an alarm system, the police chief shall order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected.

(e) Any user of an alarm system which transmits false alarms shall be assessed a fine of twenty-five dollars (\$25.00) for each false alarm in excess of three (3) occurring within the calendar year. All fines assessed hereunder shall be paid to the city treasurer for deposit in the general fund. Upon failure of the user of an alarm system to pay two (2) consecutive fines assessed hereunder within sixty (60) days of assessment, the police chief shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the police chief's order.

(f) Any user of an alarm system who has, in accordance with this section, been ordered by the police chief to discontinue use of an alarm system may appeal the order of discontinuance to the board of aldermen. Notice of an appeal shall be filed with the clerk of the board of aldermen within ten (10) days of the date of the order of discontinuance. Thereafter the board shall consider the merits of the appeal, and in connection therewith shall hear evidence presented by all interested persons. After hearing such evidence, the board may affirm, vacate or modify the order of discontinuance. (Rev. Ords. 1973, § 17-17; Ord. No. 176, 12-6-76; Ord. No. 214, 5-16-77)

Sec. 24-34. Penalties.

(a) The following acts and omissions shall constitute violations of this chapter punishable by fine of up to fifty dollars (\$50.00):

- (1) Failure to obey an order of the police chief to discontinue use of an alarm system, after exhaustion of the right of appeal;
- (2) Failure to disconnect an automatic dialing device from any telephone numbers at the police department within six (6) months after the effective date of Ordinance No. 176;
- (3) Interconnection of an automatic dialing device to any telephone numbers at the police department after the effective date of Ordinance No. 176;
- (4) Failure to pay two (2) or more consecutive fines assessed under this chapter within sixty (60) days from the date of assessment;
- (5) Failure to comply with the requirements of section 24-31(a) through (d) of this chapter.

(b) Each day during which the aforesaid violations continue shall constitute a separate offense. (Rev. Ords. 1973; Ord. No. 176, 12-6-76)