

Document 28

Revised Trespass to Property Procedures

Trespass to Property Procedures

Approved by: City Council

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Application

These procedures have been created to support the implementation of the City's Public Conduct Policy; they are applicable to any individual on City property, parks, or facilities, with the exception of property managed by the Ottawa Police Service, Ottawa Public Library, and Transit Services Department.

Procedures description

Objective

The purpose of these procedures is to provide City staff with clear direction regarding the issuance of Trespass to Property Notices.

Background and process overview

The City of Ottawa is committed to ensuring a safe and respectful environment for everyone. The City owns or occupies a variety of different properties, parks and facilities which employees and members of the public access. These locations are used for different purposes, including work, recreation and cultural activities, learning, access to municipal and other programs and services, and participation in democratic processes protected under the *Charter of Rights and Freedoms*.

The City has a general duty under the *Occupiers' Liability Act* to take reasonable care to ensure that individuals on its property are safe. The City has further duties under the *Occupational Health and Safety Act* and the *Criminal Code of Canada* to address workplace violence and harassment.

One of the enforcement mechanisms which the City may use to further its statutory and common law duties as an owner and occupier of premises, as well as a workplace employer, is to exclude persons from the premises through the issuance of a Trespass to Property Notice in accordance with the *Trespass to Property Act*.

Individuals who fail to abide by City policies, including the Public Conduct Policy, or who otherwise engage in aggressive, disrespectful or intimidating behaviour, bullying, harassment, use of coarse language or criminal behaviour while accessing a City program, service, event or facility may be refused service and asked to leave the premises immediately.

For non-violent incidents, issuance of a Trespass to Property Notice may be considered to prevent future reoccurrences. Delegated staff members who can issue Trespass to Property Notices on behalf of their department are outlined in Appendix A.

For any incident where violence is imminent, or for a crime in progress, the Ottawa Police Service must be contacted immediately at 9-1-1.

Procedures

All staff should ensure they are familiar with the City's Public Conduct Policy.

The following steps shall be taken when issuing a Trespass to Property Notice:

1. Review Appendix A to determine which type of warning or notice is appropriate for the incident or behaviour.
2. Confirm the appropriate delegated departmental staff member who can issue the warning or notice, as described in Appendix A.
3. The delegated departmental staff member will issue the person being trespassed with the Warning or Notice:
 - a. **Verbal Warning – 72 hours or less**
Issued immediately by delegated departmental staff member working at a facility and/or facility Security Guards.
 - b. **Written Notice (Appendix B) – 72 hours or more**
Where a mailing address is available to City staff, the written notice (Appendix B) is delivered to the recipient via registered mail.
When an address is not available, the physical notice (Appendix B) is prepared and delivered by City staff, security guards or delegated City staff, usually the next time the recipient is seen on the premises.
4. Document the incident using the online [Incident Report – Corporate Security Form](#) (VPN required), within 72 hours of the incident occurring. Please include a detailed summary of the incident. If a notice was issued by a delegated departmental staff member, please include it as an attachment to the incident report.
5. The submitter will receive an acknowledgement to confirm receipt of the incident report, along with a case number from Corporate Security that should be kept for all future submissions.

Request for review process

Individuals who have received a written Trespass to Property Notice (Notices issued for period of 72 hours or longer) may challenge the Notice by submitting a request in writing to the attention of the Program Manager, Corporate Security within 10 business days from the date the Notice was issued. Verbal notices (72 hours or less) are not subject to review.

Requests for review may be submitted by email to pmcorsec@ottawa.ca or by mail to:

Program Manager, Corporate Security
101 CentrepoinTE Drive
Ottawa ON, K2G 5K7

All requests for review received within the prescribed period shall be forwarded by the Corporate Security Program Manager to the attention of the City Clerk along with a copy of the Trespass to Property Notice, the Incident Report, and any other relevant documentation. The City Clerk, or authorized delegate, shall conduct a review of the Trespass to Property Notice.

A request for a review does not stay the operation of the Trespass to Property Notice.

The City Clerk, or delegate, may contact the individual requesting the review to obtain any further information deemed relevant for the review. The City Clerk will communicate their decision in writing to the Requester and Corporate Security Program Manager within 10 business days of the review having been completed.

In conducting a review, the City Clerk, or delegate, may uphold, modify, or withdraw all or part of the Trespass to Property Notice. This decision shall be final and binding.

Monitoring/Contraventions

Failure to complete all requirements outlined in these Trespass to Property Procedures will be considered non-compliance and could lead to disciplinary action.

References

[Charter of Rights and Freedoms](#), Part I of the Constitution Act, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11

Corporate Security Framework

[Criminal Code of Canada](#), R.S.C., 1985, c. C-46

[Occupational Health and Safety Act](#), R.S.O. 1990, c. O.1

[Occupiers' Liability Act](#), R.S.O. 1990, c. O.2

[Public Conduct Policy](#)

[Trespass to Property Act](#), R.S.O. 1990, c. T.21

Roles and Responsibilities

City Manager

Issue Trespass to Property Notices for any period in excess of five years.

General Managers/Directors

Communicate this procedure to all employees in their department and ensure ongoing compliance with all requirements outlined in this document.

Delegate authority in writing for the issuance of Trespass to Property Notices to staff at their respective facilities.

Delegated Staff Members and Facility Security Guards

Before issuing a Trespass to Property Notice, consider all appropriate alternative measures that could be utilized instead (see Appendix A for more details).

If appropriate, issue Trespass to Property Notices as outlined in Appendix A.

Document and submit all incidents of Trespass to Property Notice issuance to Corporate Security by completing the online [Incident Report – Corporate Security](#) Form within 72 hours of the incident.

Departmental Managers

Ensure compliance with the procedures outlined in this document.

If appropriate, issue Trespass to Property Notices as outlined in Appendix A.

All City Staff

Contribute to and maintain a safe and secure environment for the purposes of work, public usage, and civic participation.

Report any security incident (e.g., theft, break and enter, vandalism, violence/harassment, drugs and alcohol, loitering, causing a disturbance, and/or suspicious behavior) to supervisors within 72 hours of occurrence.

If any incident presents an immediate threat – contact 9-1-1.

Corporate Security Branch

Review all Trespass to Property Notices and related incident reports submitted to Corporate Security for consistency, tracking and trending purposes.

Maintain a centralized incident management database including information related to the issuance of Trespass to Property Notices.

City Clerk

Upon request, conduct all reviews involving the issuance of a Trespass to Property Notice and issue a written final decision to the review requestor within 10 business days of the review having been completed.

When conducting a review, in addition to relevant factors to each case, consider all appropriate alternative measures that could be utilized before upholding, modifying or rescinding a Trespass to Property Notice to minimize negative impacts that may result from limitations to City services/programs/facilities.

Definitions

In this Procedure, unless otherwise stated:

City premises include the buildings, and all adjacent municipal property, which is attached to the building, including but not limited to playgrounds, parking lots, and all parks, and all lands owned or occupied by the City.

Trespassing or trespass carries the same definition as used in Subsection 2(1) of the *Trespass to Property Act* R.S.O. 1990, c. T.21, as amended, as follows:

2(1) Every person who is not acting under a right or authority conferred by law and who,
(a) without the express permission of the occupier, the proof of which rests on the defendant,

(i) enters on premises when entry is prohibited under this Act, or

(ii) engages in an activity on premises when the activity is prohibited under this Act; or

(b) does not leave the premises immediately after he or she is directed to do so by the occupier of the premises or a person authorized by the occupier, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Verbal notice – a Trespass notice for a duration 72 hours or less. Verbal notices remain in effect for up to and including, 72 hours from the time of issuance.

Written notice – a Trespass notice issued in writing for periods of more than 72 hours up to five years or more and may be facility specific and/or city-wide.

Enquiries

Should you have any questions regarding the requirements of this procedure, please contact:

Program Manager, Corporate Security

Tel: 613-580-2580

Email: pmcorsec@ottawa.ca

Appendices

[Appendix A – Guidelines for Issuing a Trespass to Property Notice:](#)

Guidelines outlining incident/behaviour types for which a Trespass to Property Notice may be issued (at the discretion of the issuer). If a decision is made to issue a Notice, the Table also identifies who can issue a Notice in accordance with how long the service or facility restriction (ban) will be in place.

(see below)

[Appendix B – Trespass to Property Notice](#)

Corporate template for issuing all written Trespass to Property Notices.

(see below)

Appendix A – Guidelines for issuing a Trespass to Property Notice

The following tables (*Table 1 – Guidelines for Issuing a Trespass to Property Notice; Table 2 – Guidelines for Type and Duration of Notice Based on Associated Incident/Behaviour*) provide a guideline to support decision-making. Those directly involved in the situation, in consultation with their Supervisor/Manager (and Corporate Security, as applicable) will have discretion as to how best to handle situations on a case-by-case basis.

As per the City's Public Conduct Policy all staff who have the authority to issue Notices, in accordance with this procedure, are required to consider and/or implement all possible alternative measures before issuing a Trespass to Property Notice. Examples of alternative measures to consider include:

- Service delivery through alternative means such as online or by phone.
- Implementing time of day restrictions and/or scheduled supervised visits to allow for access to City services without compromising safety and security.
- Whether programs/services are available at another location.

Due to the nature of incidents that precipitate the issuance of a Trespass Notice, two different formats are available:

Verbal Warnings:

Issued immediately by delegated on-site supervisory staff working at a facility and/or facility Security Guards. Verbal notices remain in effect for up to and including, 72 hours from the time of issuance. Verbal notices are not subject to review.

Written Notices:

Often issued retroactively, written notices can be issued for a period of up to five years or more and may be facility specific and/or city-wide. Where a mailing address is available to City staff, the written notice is delivered to the recipient via registered mail. When an address is not available, the physical notice is prepared and delivered by security guards or delegated City staff, usually the next time the recipient is seen on the premises.

Table 1 - Guidelines for Issuing a Trespass to Property Notice

	72 Hours or Less	Up to 1 Year	Up to 3 Years	Up to 5 Years	Excess of 5 Years
Type of notice	<ul style="list-style-type: none"> • Verbal warning notice 	<ul style="list-style-type: none"> • Written notice 	<ul style="list-style-type: none"> • Written notice 	<ul style="list-style-type: none"> • Written notice 	<ul style="list-style-type: none"> • Written notice
Who can issue the notice	<ul style="list-style-type: none"> • Delegated on-site Supervisory Staff (HR Level 6 or higher) • Facility Security Guards 	<p>Site specific issuance</p> <ul style="list-style-type: none"> • Delegated Facility Managers (HR Level 6 or higher) <p>Citywide issuance</p> <ul style="list-style-type: none"> • Delegated Departmental Managers (HR Level 6 or higher) • Corporate Security Advisors 	<ul style="list-style-type: none"> • Program Manager, Corporate Security (HR Level 4 or 5) • Director (HR Level 3) • Manager (HR Level 4) 	<ul style="list-style-type: none"> • Director, Public Safety Service (HR Level 3) • General Manager (HR Level 2) 	<ul style="list-style-type: none"> • City Manager (HR Level 1)

Table 2 – Guidelines for Type and Duration of Notice Based on Associated Incident/Behaviour

Associated Incident / Behaviour	72 Hours or Less (Verbal Warning)	Up to 1 Year (Written Notice)	Up to 3 Years (Written Notice)	Up to 5 Years (Written Notice)	Excess of 5 Years (Written Notice)
Loitering	<ul style="list-style-type: none"> • Loitering 	Repeat offence	N/A	N/A	N/A
Causing a disturbance	<ul style="list-style-type: none"> • Noise disturbance • Profane language • Inappropriate public internet usage • Mischief 	Repeat offence	N/A	N/A	N/A
Violence / Harassment	<p>Harassment</p> <ul style="list-style-type: none"> • Unwelcome jokes 	Violence / Harassment	Violence / Harassment	Violence / Harassment	Violence / Harassment

	<ul style="list-style-type: none"> • Remarks • Innuendoes • Leering 	<ul style="list-style-type: none"> • Unwelcome physical contact • Persistent unwanted contact • Verbal assault or threats • Aggressive behaviours • Altercation 	<ul style="list-style-type: none"> • Physical assault • Indecent exposure 	Recommended by-law enforcement	Recommended by-law enforcement
Drugs and alcohol	Under the Influence	Consumption / Possession	Sale / Trafficking	Recommended by-law enforcement	Recommended by-law enforcement
Suspicious activity	Suspicious Activity	Police contacted	N/A	N/A	N/A
Theft	N/A	Personal and City property	Personal and City property	Recommended by-law enforcement	Recommended by-law enforcement
Break and enter	N/A	N/A	Break and enter	Recommended by-law enforcement	Recommended by-law enforcement
Vandalism	N/A	Vandalism	Major	Recommended by-law enforcement	Recommended by-law enforcement

Appendix B – Trespass to Property Notice



Notice Under the Trespass to Property Act

Issued To: (_____ **Insert full name of person being trespassed**)

You are Hereby Given Notice Pursuant to Subsection 2(1) of the *Trespass to Property Act*, R.S.O. 1990, c. T.21, s. 2 (1); 2016, c. 8, Sched. 6, s. 1, as amended, that you are prohibited from entering upon the premises (i.e. lands, buildings, and structures) of the (*Insert Facility Name* _____), located at (*Insert Address* _____, *Ottawa*), and its surrounding grounds and appurtenances, effective for (*Insert Length of Ban*), which shall remain in full force and effect until its expiration on: (*Insert end date*)

In accordance with this Notice, you are hereby directed to immediately leave the said premises by the most expeditious route and not return.

You are advised that entry onto said premises and failure to comply with this Notice are offences under Subsection 2 (1) of the *Trespass to Property Act* and upon conviction, you are liable to a fine of not more than \$10,000.

Issued this (*Insert Date*)

Reason: (*Insert Reason e.g., Violence/Harassment - Indecent Exposure*)

(*Position, Department*)

Inquiries: 613-580-2424

Request for Review:

Individuals who have received a written Trespass to Property Notice can request to have this Notice reviewed, by sending a request in writing by email to:

pmcorsec@ottawa.ca or by mail to: Program Manager, Corporate Security, 101 CentrepoinTE Drive, Ottawa ON, K2G 5K7. *All requests for review must be received within **10 business** days of receiving this Notice. The City Clerk, or authorized delegates, will conduct reviews.*