

Corporate Trespass to Property – Procedures

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Application

This Corporate Trespass to Property Procedure has been created to support the implementation of the City's Public Conduct Policy.

This procedure is applicable to any individual on City property, parks or facilities, with the exception of the Ottawa Police Service and Transportation Services department property.

Procedure Description

Objective

The purpose of this procedure is to provide City staff clear direction and requirements 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 and buildings which members of the public or employees access. These premises are accessed for a variety of purposes, including work, recreation and cultural activities, learning, and for accessing municipal and other programs and services, along with furthering public discourse and participating in democratic processes and values protected under the *Charter of Rights and Freedoms*.

The City has a general duty under the *Occupiers' Liability Act* to take such care as in all the circumstances is reasonable to see that persons entering on its premises, and the

property brought on the premises are reasonably 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 mechanisms¹ which the City may use to further its statutory and common law duties as owner and occupier of premises, as well as an employer of a workplace, to exclude persons from the premises is through the use 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, who use coarse language or engage in 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.

For any incidents where acts of violence are imminent, or for incidents of a crime in progress, Ottawa Police shall be contacted immediately at 9-1-1.

Delegated staff members who can issue Trespass to Property Notices on behalf of their department are outlined in **Appendix A**.

Practices and Procedures

The following provides the steps to be taken when issuing a Trespass to Property Notice whether issued by a department or by Corporate Security.

1. Document the incident using the [Incident Report – Corporate Security](#) Form, within 72 hours of the incident occurring and submit to Corporate Security. Please provide all the information required in the Form and be as specific as possible.
2. The Department submitter will receive an acknowledgement along with a Case Number that should be kept for all future submissions.
3. Consult Appendix A of this Procedure to determine who can issue the Trespass to Property Notice.
4. If the Trespass to Property Notice is to be issued by Corporate Security, it will be issued in accordance with the guidelines as set out at Appendix A and the Trespass to Property Notice will be updated to the original incident file.
5. If the Notice is to be issued by a delegated departmental staff member (i.e. not by Corporate Security), send a copy of each Trespass to Property Notice once issued to Corporate Security (quoting the Case Number received when the Incident Report was submitted).

¹ *Bracken v. Fort Erie (Town)*, 2017 ONCA 668 (CanLII), at para. 70, and cited in *McLeod v. City of Brantford*, 2018 ONSC 943 (CanLII) (Div. Ct) at para. 14.

6. On a quarterly basis, Corporate Security will provide General Managers a list of all issued Trespass to Property Notices along with a list of those Trespass to Property Notices which are scheduled to expire within the following quarter.

Given the diverse range of services, resources and programming available at the City, the issuance of a Trespass to Property Notice in excess of five years will be limited and will be issued by the City Manager, or delegate.

Request for Review Process

Individuals who have received a written Trespass to Property Notice (Notices issued for period of 72 hours or longer) may request a formal review of same 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 corsec@ottawa.ca or by mail to:

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

All requests for a review received within the prescribed period shall be forwarded by the Program Manager, Corporate Security to the attention of the City Clerk and Solicitor along with a copy of the Trespass to Property Notice, the Incident Report, and any other documentation relevant to the Trespass to Property Notice. The City Clerk and Solicitor, or such authorized delegates as may be delegated in writing by the City Clerk and Solicitor, 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 and Solicitor, or delegate, as the case may be, may contact the individual requesting the review in order to obtain any further information deemed relevant for the review.

The City Clerk and Solicitor shall communicate a decision on the review to the Requester and to the Program Manager, Corporate Security within 10 business days of completion of the review.

In conducting a review, the City Clerk and Solicitor, or delegates, 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 this Corporate Trespass to Property procedure will be considered non-compliance and could lead to disciplinary action.

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.

Written Notice – a Trespass notice issued in writing for periods of more than 72 hours.

References

- City of Ottawa Public Conduct Policy
- [City of Ottawa Violence and Harassment in the Workplace Program](#)
- [Trespass to Property Act](#), R.S.O. 1990, c. T.21
- *Occupiers' Liability Act*, R.S.O. 1990, c. O.2
- *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1
- *Criminal Code of Canada*, R.S.C., 1985, c. C-46
- *Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

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.

- Receive and review the quarterly summary report, from Corporate Security, of all Trespass to Property Notices issued ensuring appropriate communication with relevant parties.

Office of the City Clerk and Solicitor

- 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.

Delegated Staff Members and Facility Security Guards

- Before issuing a Trespass to Property Notice, consider all appropriate alternative measures that could be utilized before issuing a Trespass to Property Notice (see Appendix A for more details).
- If appropriate, issue Trespass to Property Notices as outlined in Appendix A: Guidelines for Issuing a Trespass to Property Notice.
- Document and submit all incidents of Trespass to Property Notice issuance to Corporate Security by completing an [Incident Report – Corporate Security](#) form within 72 hours of the incident.

Departmental Managers

- Ensure compliance with the procedures outlined in this document.
- Issue written Trespass to Property Notices as outlined in Appendix A: Guidelines for Issuing a Trespass to Property Notice.
- Document and submit all incidents of Trespass to Property Notice issuance to Corporate Security by completing an [Incident Report – Corporate Security](#) form within 72 hours of the incident. If the notice is not issued by Corporate Security, send a copy of each written Trespass to Property Notice once issued (quoting the case number received when the Incident Report was submitted) so it is added to the original file.

Corporate Security Branch

- Issue written Trespass to Property Notices as outlined in Appendix A: Guidelines for Issuing a Trespass to Property Notice.
- 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.
- Provide a quarterly summary report of all Trespass to Property Notices issued for reconciliation, tracking and trend analysis purposes to impacted General Managers.

Manager, Security and Emergency Management

- Ensure compliance with the procedures outlined in this document.

- Issue written Trespass to Property Notices as outlined in Appendix A.
- Conduct an annual review of this Procedure in consultation with the City Clerk and Solicitor.

All City Staff

- To ensure we all continue to work in a safe and respectful workplace, report any incident or behaviour that you experience, or witness, that makes you uncomfortable or unsafe to your manager/supervisor so that they can work with you to resolve the matter quickly.
- If the incident presents an immediate threat – contact 9-1-1 and Corporate Security.

Keywords

Notice
Property
Safety
Trespass
Violent

Enquiries

Should you have any questions regarding the requirements of this procedure, please contact Program Manager, Corporate Security at: 613-580-2580 or corsec@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.

[Appendix B – Trespass to Property Notice](#) is the corporate template for issuing all written Trespass to Property Notices.

Appendix A - Guidelines for Issuing a Trespass to Property Notice:

The following Table is provided as a guideline to support decision-making on next steps. 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.

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 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, by Corporate Security or delegated City staff members. 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 Corporate Security staff, security guards or delegated City staff, usually the next time the recipient is seen on the premises.

	72 Hours or Less (Verbal Warning Notice)	Up to 1 Year (Written Notice)	Up to 3 Years (Written Notice)	Up to 5 Years (Written Notice)	Excess of 5 Years (Written Notice)
Who can issue this	<ul style="list-style-type: none"> • On Site Supervisory Staff • Facility Security Guards 	<ul style="list-style-type: none"> • Delegated Facility Managers: Site specific issuance • Delegated Departmental Managers and Corporate Security Advisors: City Wide issuance 	<ul style="list-style-type: none"> • Program Manager, Corporate Security • Division Manager, Branch Operations, Ottawa Public Library • Director • Manager 	<ul style="list-style-type: none"> • Manager, Security and Emergency Management • Chief Executive Officer, Ottawa Public Library • General Manager 	<ul style="list-style-type: none"> • City Manager
Associated Incident/ Behaviour (Types and Frequency)	Loitering	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 	Causing a Disturbance (Repeat Offence)	N/A	N/A	N/A
	Harassment: unwelcome jokes, remarks, innuendoes, leering	Violence / Harassment: <ul style="list-style-type: none"> • Unwelcome physical contact 	Violence / Harassment: <ul style="list-style-type: none"> • Physical Assault 	Violence / Harassment: Recommended by law enforcement	Violence / Harassment: Recommended by law enforcement

	72 Hours or Less (Verbal Warning Notice)	Up to 1 Year (Written Notice)	Up to 3 Years (Written Notice)	Up to 5 Years (Written Notice)	Excess of 5 Years (Written Notice)
Associated Incident/Behaviour (Types and Frequency)		<ul style="list-style-type: none"> • Persistent unwanted contact. • Verbal Assault / Threats • Aggressive Behaviours • Altercation 	<ul style="list-style-type: none"> • Indecent Exposure 		
	Drugs and Alcohol <ul style="list-style-type: none"> • Under the Influence 	Drugs and Alcohol <ul style="list-style-type: none"> • Consumption / Possession 	Drugs and Alcohol <ul style="list-style-type: none"> • Sale/trafficking 	Drugs and Alcohol: Recommended by law enforcement	Drugs and Alcohol: Recommended by law enforcement
	Suspicious Activity	Suspicious Activity – Police contacted	N/A	N/A	N/A
	N/A	Theft – personal and City property	Theft – personal and City property	Theft – Recommended by law enforcement	Theft – Recommended by law enforcement
	N/A	N/A	Break and Enter	Break and Enter – Recommended by law enforcement	Break and Enter – Recommended by law enforcement
	N/A	Vandalism	Vandalism – Major	Vandalism – Recommended by law enforcement	Vandalism – Recommended by law enforcement

Appendix B – Corporate Trespass to Property Notice



NOTICE UNDER THE TRESPASS TO PROPERTY ACT

Issued To:

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*)

Signed

(*Insert Name, 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:

corsec@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 and Solicitor Department will conduct reviews.*