

THE CORPORATION OF THE CITY OF WINDSOR

POLICY

Service Area:	Office of the City Solicitor	Policy No.:	
Department:	Legal	Approval Date:	May 27, 2013
Division:	Legal Services	Approved By:	CR98/2013
		Effective Date:	May 27, 2013
Subject:	Notice of Trespass Policy		
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**NOTICE OF TRESPASS POLICY**

1. **POLICY STATEMENT**

1.1 The purpose of this policy is to provide a system of issuance of notices of trespass and to ensure that access to a municipal property is protected as per the *Trespass to Property Act, R.S.O. 1990, T.21*, and that all citizens have a right to the enjoyment and use of municipal property without interference, as well as a right to peaceful demonstration and expression of dissenting views.

2. **DEFINITIONS**

In this policy, unless otherwise stated:

2.1 Municipal premises include the buildings, and all adjacent municipal property which is attached to the building, including but not limited to playgrounds, parking lots and parks.

2.2 Trespassing carries the definition used in the *Trespass to Property Act, 1990*.

*Trespass an offence*

- 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 \$2,000.  
R.S.O. 1990, c T.21, s. 2(1).

- 23 The following persons will be empowered to act as “authorized persons” or occupiers at municipal premises for the purposes of enforcing the *Trespass to Property Act, 1990*, of the Province of Ontario; and when necessary to issue a notice of trespass.
- a) a person currently employed with The Corporation of the City of Windsor in a supervisory position.
  - b) an Officer of the Windsor Police Service.
- 24 This policy shall apply to all City properties.
- 25 All references to Chief Administrative Officer (CAO), Corporate Leadership Team Member (CLT), City Solicitor, City Clerk and Executive Director of Human Resources include their designates from time to time.

### 3. **PROCEDURES**

#### 3.1 Warnings to Trespassers

- 3.1.1 Entry onto municipal premises may be prohibited by providing notice. The notice may be given orally or in writing to any person whose conduct is disruptive to the conduct of City business or activities or is threatening to the staff or other users of City facilities. Specific notice that entry is prohibited is not required to keep persons out where the site is completely enclosed by a fence which has been specifically designed to keep persons off the property.
- 3.1.2 In order to prohibit general entry to municipal premises, it is necessary to have signs or markings; otherwise it is necessary to confront a trespasser and give oral notice.

#### 3.2 Written Notice of Trespass in a Non-Emergency Situation

In a non-emergency situation and/or where a person has trespassed on municipal premises and the person’s attendance in future is undesirable, in that it is threatening to other users, disruptive of others use of municipal property, or is conduct which impairs others using municipal property, a notice of trespass letter may be mailed or delivered in person, in a form similar to the example in Form 1. Such a letter is not a requirement for laying a charge against such a person should he or she continue to trespass.

#### 3.3 Notices of Trespass

All written Notices of Trespass to be issued by the City shall, prior to issuance, be forwarded for review to the City Solicitor or designate to determine whether the circumstances warrant the issuance of a written Notice to Trespass. The City Solicitor or his designate shall, in appropriate circumstances issue the Notice to Trespass.

34 Representations

The subject of the Notice shall be permitted to make representations to the City Solicitor (either in writing or in person) prior to its issuance.

35 Records

The Notice of Trespass as issued by the City Solicitor shall be filed with the CAO and the Executive Director of Human Resources and Facility Management.

36 Dealing with a Trespasser

Authorized persons will find the following guidelines useful when dealing with a trespasser:

3.6.1 Preliminary Measures

- a) Get a good description of the person.
- b) Note the time.

3.6.2 Preventing Confrontation – Engendering Maximum Co-operation

- a) Introduce yourself (name, position and authority to act).
- b) Be courteous, calm and assured.
- c) Ask the person to identify herself/himself (name and address).
- d) Do not touch the person.
- e) Give clear direction to the person and offer assistance.
- f) Try to keep the situation from escalating.
- g) The trespasser will usually comply, and no further action will be necessary. If not, inform the person that he or she is trespassing and is directed to leave the premises.

37 Laying a Charge

3.7.1 If the trespasser refuses to leave, or if the trespasser has caused property damage, you may call the police to lay a charge. Again request the trespasser's name and address (if these are not available from another source) in order that you may have the police lay a charge.

3.7.2 Advise your immediate supervisor of any action you have taken.

3.7.3 The authorized person shall notify the City Solicitor in writing of all the particulars of the event leading up to the incident.

38 Arresting a Trespasser

3.7.1 CALL THE POLICE TO MAKE THE ARREST.

**4. LENGTH OF BAN**

- 41 A first Notice of Trespass will be for a period of up to a week to ten days. Subsequent cases or incidents of more serious or threatening behaviour may incur periods of up to six months including an indefinite ban as approved by the City Solicitor. Long term bans shall be the exception rather than the rule.
- 42 The Notice shall be subject to an automatic review by the authorized person issuing the notice after twelve months and every succeeding twelve months after.

**5. APPEALS**

- 5.1 Should a person served with a written Notice of Trespass take issue with that service, a written letter outlining the reason for appeal should be forwarded by that person to the CAO. In making the decision, the CAO may choose to seek legal advice from a source other than the City Solicitor. The CAO may uphold the service of that Notice or direct its withdrawal and the decision of the CAO is final.

**6. FORMS**

Form 1:           Template of Notice of Trespass Letter



Attachment 1: Form 1 – Template of Notice of Trespass Letter

[FORM 1]

**THE CORPORATION OF THE CITY OF WINDSOR**

**NOTICE UNDER THE TRESPASS TO PROPERTY ACT**

[Date]

[ADDRESS]

Dear [redacted]:

Please consider this a Letter of Notice under the *Trespass to Property Act*.

This letter is to address those behaviours observed on [insert date], in which you did the following:

[describe]

**The above actions are unacceptable and inappropriate.**

**YOU ARE HEREBY GIVEN NOTICE THAT YOU ARE NOT PERMITTED ENTRY TO THE CITY OF WINDSOR PROPERTIES (specify areas) WITHOUT EXPRESS PERMISSION, EITHER IN WRITTEN FORM OR BY TELEPHONE CONFIRMATION, BY A SITE MANAGER OR DESIGNATE. YOU ARE ALSO NOT PERMITTED TO LOITER ABOUT THE PROPERTY SURROUNDING THIS AREA WITHOUT PURPOSE.**

**THIS NOTICE MAY BE APPEALED TO THE CHIEF ADMINISTRATIVE OFFICER.**

If you require further assistance or clarity regarding this matter, please feel free to contact me by phone at 519-255-6100 ext. XXXX, or by letter at the below address.

Sincerely,