

Department: Administration	Policy Number: M09-01900
Subject: Prohibited Conduct and Trespass Policy and Procedure	Effective Date: April 8, 2025
Bylaw No: NA	Revision Date:
	Version #: #1

## **Policy:**

Prohibited Conduct and Trespass Policy and Procedure

## **Scope:**

This Policy applies to all individuals accessing municipal facilities.

## **Purpose:**

The purpose of this policy is to help identify prohibited conduct and to establish and communicate corporate standards for addressing prohibited conduct at a Town Facility as well as the issuance of Trespass Notices pursuant to the Trespass to Property Act, R.S.O. 1990, c. T21.

## ***Trespass to Property Act R.S.O. 1990, Chapter T.21***

**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. R.S.O. 1990, c. T.21, s. 2 (1); 2016, c. 8, Sched. 6, s. 1.

## **Commitment:**

The Corporation of the Town of Espanola is committed to making reasonable efforts to provide an inclusive, healthy, safe and respectful environment for everyone at its facilities.

## **Prohibited Conduct:**

Town facilities are accessed for a variety of purposes, including work, recreation and cultural activities, and for accessing municipal and other programs and services. The Town recognizes that most individuals use our facilities in a responsible manner.

However, there are certain instances where individuals engage in **prohibited conduct**, which compromises the health, safety and well-being of others and their enjoyment and use of Town facilities.

Prohibited conduct generally includes, but is not limited to, the following behaviours:

- Verbal assaults deemed to be aggressive, intimidating or having the potential of inciting violence.
- Threats and/or attempts to intimidate
- Swearing
- Throwing of articles in a deliberate or aggressive manner
- Aggressive approaches to another individual (physical/ verbal assault)
- Physical striking of another individual or any act of violence
- Attempts to incite violence in others
- Theft of property
- Possession of weapons
- Vandalism to Town facilities
- Refusal to abide by Town facility rules and/or posted notices
- Making slurs against one's ethnicity, race, sexual orientation or other protected grounds as identified by the Ontario Human Rights Code
- Illegal consumption of alcohol or drugs
- Harassment (discriminatory, bullying, unwanted communication, sexual, etc.)
- Displaying of abusive or offensive words, images, etc.
- The use of all cell phones, cameras, video recording devices, personal digital devices, or any other equipment with video or photographic abilities in change rooms and public washrooms
- Contravention of any Town of Espanola bylaw or policy
- Criminal behavior of any kind whatsoever

Engaging in these types of behaviours may result in a Trespass Notice where you will not have access to some or all municipal facilities.

### **Factors in Giving a Trespass Notice**

In determining whether to give or extend a Trespass Notice to a person, the locations where entry is prohibited, and the duration of the prohibition, the following provides factors to consider:

- the feasibility and effectiveness of any warnings to the person or graduated restrictions placed on the person;
- the severity of the harm or potential harm caused by the person's prohibited conduct to Town Employees, Council, Contracted Service Provider, Students or Volunteers, members of the public or Town Facility;
- the Person's level of ability or circumstances;
- the history of the Person's conduct and interactions in Town Facilities;
- the likelihood of recurrence of the prohibited conduct by the Person; and,
- the impact of restrictions or prohibitions on the Person

### **Steps taken prior to Issuing a Trespass Notice**

Depending on the severity of the prohibited behaviour, a warning letter will be issued via registered mail to the person advising them that any further prohibited behaviour will result in a potential trespass order from the facility in which the prohibited behaviour took place. If, at the discretion of the CAO/Clerk, there is a threat to personal or public safety, or if it is determined that the problematic behaviour could reasonably carry over onto other Town facilities where similar contexts that led to the prohibited conduct are present such as organized sports for example, the order may include additional facilities.

## **PROCEDURE**

### **Notice to Trespassers**

Entry onto municipal premises may be prohibited by providing notice. Notice may be given in writing or verbally depending on the nature of the conduct.

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

In a non-emergency situation, a Notice of Trespass letter shall be sent by registered mail or delivered in person, in a form similar to the example in Appendix A by the CAO/Clerk.

### **Notice of Trespass in an Emergency Situation**

In an emergency situation where a Person is acting in a threatening manner to other users, disruptive of others' use of municipal property that may cause immediate danger, a verbal Notice of Trespass may be issued, and the Person shall leave the premises immediately. In the event the Person refuses to leave, the OPP shall be called. As soon as possible thereafter, a form similar to the example in Appendix A shall be completed and filed with the CAO/Clerk.

## **Notices of Trespass**

All written Notices of Trespass to be issued by the Town shall be issued by the CAO/Clerk or designate. All Department Managers will be notified of each order as well as when the order has been lifted. This information will be shared with the designate in charge when Managers are off duty.

### **Dealing with a Trespasser (Support Staff)**

All employees play a part in keeping the Town's facilities an inclusive, healthy, safe and respectful environment for everyone to enjoy. When a known Trespasser does not follow the order and attends a Town facility, the employee shall notify their Manager or designate.

### **Dealing with a Trespasser (Manager or Designate)**

The following steps shall be taken by the Manager or Designate:

1. Note the date and time
2. Prevent confrontation - introduce yourself (name, position and authority to act)
3. Be courteous, calm and assured
4. Give clear direction to the person, advising that they have a trespass order against them and ask them to leave the premises
5. Try to keep the situation from escalating
6. The Trespasser will usually comply, and no further action will be necessary
7. If the Trespasser refuses to leave the facility, call OPP

Complete Form shown as Appendix B and file with the CAO/Clerk.

### **Length of Ban**

A first Notice of Trespass will be for a period of three months. Subsequent cases or incidents of more serious or threatening behaviour may incur periods of one year or an indefinite ban as determined by the CAO/Clerk.

Indefinite bans shall be subject to an automatic review by the CAO/Clerk after twelve months and every succeeding twelve months after.

### **Requesting a Formal Review**

Individuals who have received a Trespass Notice may request a formal review of same by submitting a request in writing to the attention of the CAO/Clerk.

Requests for Review may be submitted by email to [jburke@espanola.ca](mailto:jburke@espanola.ca) or by mail to:

Joseph Burke, CAO/Clerk  
100 Tudhope Street  
Unit 2  
Espanola ON P5E 1S6

All requests for a review received within the prescribed period shall accompany a copy of the Trespass Notice and any other documentation relevant to support the review. The CAO/Clerk, appropriate Town facilities manager and Deputy Clerk shall conduct a review of the Notice. A request for a review does not stay the operation of the Trespass Notice.

The CAO/Clerk or designate may contact the individual requesting the review in order to obtain any further information deemed relevant for the review. The CAO/Clerk shall communicate a decision on the review to the Requester within 5 business days of completion of the review.

In conducting a review, the CAO/Clerk, or designates, may uphold, modify, or withdraw all or part of the Trespass to Property Notice. The authority to apply or lift notices under this policy is the CAO/Clerk or their designate. This decision shall be final and binding.

## APPENDIX A

(Date)

RE: Trespassing – Section 2(1)(a)(i) of  
THE TRESPASS TO PROPERTY ACT

Please tender this as a written notice as prescribed under Section 2(1)(a)(i) of the Trespass to Property Act, 1990.

You, **name of person notice being issued to** of **address**, are no longer welcome or permitted on the **Municipal facility address**, the premises known as **municipal facility name**.

This no trespass order is being issued as a result of an incident that occurred on **Date of incident** at the **location of incident** involving you, **name of any others involved**, in which you violated the Town of Espanola **name of policy being violated/brief description of behaviour resulting in Order**.

If you are seen on or near the property, the Ontario Provincial Police will be notified and they in turn will arrest and remove you from the premises in accordance with Section 9(1) of the Act.

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Joesph Burke, CAO/Clerk

- A) Forwarded to **name and address of person in which the order applies** by Expresspost Mail on **date**.
- B) Copy to Ontario Provincial Police.
- C) Copy to **name of affected facility manager**
- D) Attached copy of Policy # **provide copy of which policy is violated**

**APPENDIX B**

***In the event a known Trespasser attends a prohibited municipal facility,  
please complete this form and forward it to the CAO/Clerk as soon as  
possible.***

Joseph Burke  
CAO/Clerk  
Town of Espanola  
[jburke@espanola.ca](mailto:jburke@espanola.ca)

**RE:    Trespassing Order Against (name of person)**

Date of attendance	
Time of attendance	
Municipal Facility attended	

Please provide a brief description of your interaction with the person and the end result


Was the OPP contacted? Yes ☐    No ☐

Signature of Manager\_\_\_\_\_

Date \_\_\_\_\_