

**As amended by By-law 24-2015  
By-law 98-2013  
of The Corporation of the City of Oshawa**

Being a by-law to establish a system for administering notices and other matters under the *Trespass to Property Act*.

**NOW THEREFORE** the Council of The Corporation of the City of Oshawa ENACTS AS FOLLOWS:

### **Interpretation**

1. In this By-law:

- 1.1. “Act” means the *Trespass to Property Act*, R.S.O. 1990, c. T.21;
- 1.2. “Appeal Fee” means the fee, if any, from time to time established by the City’s General Fees and Charges By-law 13-2003, as amended, in relation to an appeal pursuant to section 8;
- 1.3. “Authorized Person” means each of:
  - (a) a security guard employed by or under contract with the City;
  - (b) such persons employed by the City within the City’s Recreation and Culture Services Branch at the rank of Supervisor or higher as are from time to time appointed by the Commissioner, Community Services Department in consultation with the Director, Recreation and Culture Services;
  - (c) a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police; and
  - (d) a Senior Staff Person;
- 1.4. “By-law” means this by-law and any schedule to this by-law as they may from time to time be amended;
- 1.5. “City” means The Corporation of the City of Oshawa;
- 1.6. “City Facility” means any land owned or leased by the City and includes each building and other improvement thereon;
- 1.7. “Council” means the City’s Council;
- 1.8. “Hearings Officer” means each hearings officer from time to time appointed pursuant to the City’s Hearings Officer By-law 26-2008 as from time to time amended;
- 1.8.1 “Meeting Room” means that part of a City Facility in which Council or one of its Standing Committees is holding a meeting pursuant to the Municipal Act, 2001, S.O. 2001, c. 25, as amended;

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- 1.9. “Person” includes an individual, partnership, association, firm or corporation;
- 1.10. “Prohibited Conduct” includes:
  - (a) damage to a City Facility;
  - (b) interference with the operation of a City Facility;
  - (c) interference with others’ use of the City Facility; or

- (d) contravention of a law of Canada, a law of the Province of Ontario or a municipal by-law;
- 1.11. "Senior Staff Person" means the City Manager, each Commissioner and each Director of the City
- 1.12. "Service Oshawa" means the City's Customer Service Division and includes each person from time to time employed therein; and
- 1.13. "Trespass Notice" means a notice pursuant to section 3 of the Act that is authorized to be given pursuant to this By-law.

### **Trespass Notice**

- 2. An Authorized Person who has reason to believe that a Person has engaged in Prohibited Conduct may give to the Person a Trespass Notice that prohibits entry on or to a City Facility for a period not exceeding three (3) days.
- 3. A Senior Staff Person may extend the term of a Trespass Notice given pursuant to section 2 for a period not exceeding six (6) months by giving to the Person notice of the extension.
- 4. A Senior Staff Person who has reason to believe that a Person has engaged in Prohibited Conduct may give to the Person a Trespass Notice that prohibits entry on or to a City Facility for a period not exceeding six (6) months.
- 5. A Senior Staff Person may revoke or suspend a Trespass Notice extended under section 3 or given under section 4 and may impose such conditions respecting the revocation or suspension as the Senior Staff Person considers appropriate.
  - 5A. A Trespass Notice is not effective during the period and only to the extent that the Trespass Notice prevents a Person from entering or remaining in a Meeting Room provided that the Person complies with the following conditions:
    - 5A.1. The Person notifies the City Clerk of the Person's intention to attend the meeting no later than one (1) day prior to the scheduled commencement of the meeting;
    - 5A.2. The Person enters the Meeting Room no earlier than fifteen (15) minutes prior to the scheduled commencement of the meeting;
    - 5A.3. The Person remains in the Meeting Room no longer than fifteen (15) minutes after the meeting is adjourned; and
    - 5A.4. The Person complies with each direction given by the Mayor or the Committee Chair, as applicable, respecting conduct at the meeting.

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### **Application to Extend**

- 6. At any time prior to the expiry of the term of a Trespass Notice as extended under section 3, given under section 4 or extended under subsection 7.3, a Senior Staff Person may apply to the Hearings Officer to extend or to further extend the term of the Trespass Notice by giving to the Person to whom the Trespass Notice was given no fewer than seven (7) days' notice of the date, time and place of the hearing of the application.
- 7. The following applies to the hearing of an application pursuant to section 6:
  - 7.1. Where a Person to whom notice has been given fails to appear at the time and place scheduled for a hearing of the application, the Person shall be deemed to have consented to the extension request and shall not be entitled to an opportunity to be heard respecting the extension request.
  - 7.2. A Hearings Officer shall not make any decision respecting the application unless the Hearings Officer has given each of the Senior Staff Person and, subject to subsection 7.1, the Person an opportunity to be heard at the time and place scheduled for the hearing of the application.
  - 7.3. A Hearings Officer may refuse to extend the term of the Trespass Notice or, alternatively, may extend the term of the Trespass Notice for a period not exceeding one (1) year from the date of the hearing.

- 7.4. The decision of a Hearings Officer is final and not subject to review including review by any Court.

### Appeal

8. The right of a Person to appeal against the Trespass Notice expires if it has not been exercised in the manner prescribed in section 9 before 4:30 p.m. on the twenty-first (21<sup>st</sup>) day after the day on which the Trespass Notice was extended under section 3 or given under section 4 in which case: (24-2015)
- 8.1. the Person shall be deemed to have abandoned the appeal;
- 8.2. the Trespass Notice shall be deemed to be affirmed; and
- 8.3. the Trespass Notice shall not be subject to review including review by any Court.
9. Subject to section 8, where the term of a Trespass Notice as extended under section 3 or given under section 4 exceeds one (1) month, the Person to whom the Trespass Notice was given may appeal to the Hearings Officer against the Trespass Notice by giving to the City written notice of the Person's appeal and by paying the Appeal Fee. (24-2015)
10. A Person who appeals pursuant to section 9 shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
11. The following applies to the hearing of an appeal pursuant to section 9:
- 11.1. Where a Person to whom notice has been given pursuant to section 10 fails to appear at the time and place scheduled for a hearing of the appeal or fails to pay the Appeal Fee before the time scheduled for a hearing of the appeal,
- (a) the Person shall be deemed to have abandoned the appeal;
- (b) the Trespass Notice shall be deemed to be affirmed; and
- (c) The Trespass Notice shall not be subject to review including review by any Court.
- 11.2. Subject to subsection 11.1, a Hearings Officer shall not make any decision respecting the appeal unless the Hearings Officer has given each of the Senior Staff Person and the Person an opportunity to be heard at the time and place scheduled for the hearing of the application.
- 11.3. Subject to section 8 and subsection 11.1, a Hearings Officer may
- (a) revoke the Trespass Notice;
- (b) shorten the term of a Trespass Notice; or may
- (c) affirm the Trespass Notice.
- 11.4. The decision of a Hearings Officer is final and not subject to review, including review by any Court.

### Notices

12. In addition to the means of giving a Trespass Notice pursuant to section 5 of the Act, a Trespass notice that is given in writing may be given in any of the following ways and is effective:
- 12.1. when a copy is delivered to the Person to whom it is addressed;
- 12.2. on the third (3<sup>rd</sup>) day after a copy is sent by registered mail or by regular lettermail to the Person's last known address;
- 12.3. upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number; or

- 12.4. upon the sending of the notice or document or a copy thereof by e-mail transmission to the Person's last known e-mail address.
- 13. Any notice or document respecting this By-law to be given to the City shall be in writing, shall be given in any of the following ways and is effective:
  - 13.1. subject to compliance with a Trespass Notice, when a copy is delivered to Service Oshawa during its regular business hours at its reception area in the City's Civic Administration Complex, 50 Centre Street South, Oshawa; or
  - 13.2. on the third (3<sup>rd</sup>) day after a copy is sent by registered mail or by regular lettermail to the attention of the Authorized Staff Person or Senior Staff Person, as applicable, who issued the Trespass Notice at City of Oshawa, 50 Centre Street South, Oshawa, Ontario, L1H 3Z7;

**General**

- 14. Nothing in this By-law limits the City's ability to enforce its rights under the Act by all legal means. Without limitation, the Director, Municipal Law Enforcement and Licensing Services may cause to be investigated and to be undertaken such enforcement as the said Director considers appropriate respecting each alleged contravention of the Act.
- 15. It is Council's opinion that the delegations in this By-law to Authorized Persons, Senior Staff Persons and to the Hearings Officer are of a minor nature. In forming this opinion, Council has had regard to the number of people, the size of geographic area and the time period affected by the exercise of each delegated power.
- 16. The short title of this By-law is the "Trespass By-law".

**Consequential Amendment**

- 17. Delegation By-law 29-2009, as amended, is further amended by deleting in row 42 of its Schedule "A" the text in each of the adjacent cells of that row and by substituting the following text: "Deleted by By-law 98-2013".

By-law passed this fifteenth day of October, 2013.

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Mayor

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City Clerk