



City of
Peterborough

To: Members of the General Committee

From: Sandra Clancy, Chief Administrative Officer

Meeting Date: August 12, 2019

Subject: Report CAO19-007
Trespass By-Law

Purpose

A report to recommend the passing of a Trespass By-Law.

Recommendation

That Council approve the recommendation outlined in Report CAO19-007, dated August 12, 2019, of the CAO, as follows:

That Council pass the Trespass By-law attached as Appendix A to Report CAO19-007 dated August 12, 2019.

Budget and Financial Implications

There are no budget or financial implications associated with the recommendation in this report.

Background

If the recommendation is approved the by-law is intended to be presented to Council for consideration at its meeting on August 12, 2019.

The Ontario **Trespass to Property Act** permits owners of land to prohibit entry onto land or into structures by giving trespass notices. It is appropriate for Council to establish the framework that will direct staff in the administration of trespass notices.

Report CSD19-013 recommends a Parks and Facilities By-law that will include delegated authority to issue trespass notices in City parks. The Trespass By-law recommended in this report will ensure that there are no gaps in staff's ability to administer trespass notices for City property and facilities other than parks.

Appendix A is a draft proposed Trespass By-law. The following is a summary of its key features:

- The term, "Prohibited Conduct" (paragraph 7.h)), prescribes the circumstances in which a trespass notice may be issued.
- Two levels of delegated authority are proposed. "Authorized Persons" (paragraph 7.b)) may issue a trespass notice effective for up to 3 days (section 8). This ensures that front line staff may respond to urgent circumstances while permitting "Senior Staff Persons" a reasonable opportunity to determine whether a lengthier trespass notice is warranted.
- "Senior Staff Persons" (paragraph 7.i)) may extend a trespass notice issued by an Authorized Person for up to 6 months (section 9), may independently issue a trespass notice for up to 6 months (section 10) and may further extend trespass notices for successive periods not exceeding 6 months each (section 13).
- A Senior Staff Person may revoke or suspend trespass notices (section 11).
- Section 12 establishes a time-limited, conditional exemption to ensure that a trespass notice does not prevent a person from attending a meeting of Council or of one of its Standing Committees.

Submitted by,

Sandra Clancy
Chief Administrative Officer

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Attachments

Appendix A: Draft Proposed Trespass By-Law



The Corporation of the City of Peterborough

By-Law Number 19-075

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

Now therefore, The Corporation of the City of Peterborough by its Council hereby enacts as follows:

Short Title

1. This By-law may be referred to as the “Trespass By-law”.

Interpretation

2. A reference to any statute, regulation or by-law refers to that enactment as it may be amended or replaced from time to time.
3. Unless otherwise stated, a reference to a section, paragraph, clause or schedule is a reference to this By-law’s section, paragraph, clause or schedule.
4. The headings in this By-law are for convenience only and do not form part of this By-law.
5. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.
6. Where a trespass notice may be given pursuant to this By-law and pursuant to another by-law, the trespass notice may be given either pursuant to this By-law or pursuant to the other by-law.
7. In this By-law:
 - a) “Act” means the **Trespass to Property Act**, R.S.O. 1990, c. T.21.
 - b) “Authorized Person” means each of:
 - i) a security guard employed by or under contract with the City;
 - ii) each person employed by the City at the administrative rank of Supervisor or higher; and
 - iii) a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police.

- c) “By-law” means this by-law and any schedule to this by-law as they may from time to time be amended.
- d) “City” means The Corporation of the City of Peterborough or the geographic area of the City of Peterborough as the context requires.
- e) “City Facility” means any land owned or leased by the City and includes each building and other improvement thereon.
- f) “Council” means the City’s Council.
- g) “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.
- h) “Prohibited Conduct” includes:
 - i) damage to a City Facility;
 - ii) interference with the operation of a City Facility;
 - iii) interference with others’ use of the City Facility; and
 - iv) contravention of a law of Canada, a law of the Province of Ontario or a municipal by-law.
- i) “Senior Staff Person” means each person employed by the City at the administrative rank of Manager or higher.
- j) “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

- 8. 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.
- 9. A Senior Staff Person may extend the term of a Trespass Notice given pursuant to section 8 for a period not exceeding six (6) months by giving to the person notice of the extension.
- 10. 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.
- 11. A Senior Staff Person may revoke or suspend a Trespass Notice extended under section 9 or given under section 10 and may impose such conditions respecting the revocation or suspension as the Senior Staff Person considers appropriate.

Attendance at Meetings

- 12. 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:

- a) The person notifies the City Clerk of the person's intention to attend the meeting no later than twenty-four (24) hours prior to the scheduled commencement of the meeting;
- b) The person enters the Meeting Room no earlier than fifteen (15) minutes prior to the scheduled commencement of the meeting;
- c) The person remains in the Meeting Room no longer than fifteen (15) minutes after the meeting is adjourned; and
- d) The person complies with each direction given by the Mayor or the Committee Chair, as applicable, respecting conduct at the meeting.

Extension of Trespass Notice

13. At any time prior to the expiry of the term of a Trespass Notice as extended under section 9 or this section 13 or given under section 10, a Senior Staff Person may extend or further extend the term of the Trespass Notice for a period not exceeding six (6) months by giving to the person to whom the Trespass Notice was given no fewer than seven (7) days' notice of the extension.

Decision is Final

14. A decision of a Senior Staff Person made pursuant to sections 9, 10 or 13 is final and not subject to review including review by any Court.

General

15. 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 is sufficiently given:
- a) when delivered to the person to whom it is addressed;
 - b) on the third (3rd) day after a copy is sent by regular lettermail to the person's last known address; or
 - c) when sent to the person by e-mail or other means of electronic transmission.
16. Any notice or document respecting this By-law to be given to the City must be in writing addressed to the attention of the City Clerk at City of Peterborough, 500 George Street North, Peterborough, Ontario, K9H 3R9 and is not effective until it is received by the City Clerk.
17. Nothing in this By-law limits the City's ability to enforce its rights under the Act or otherwise by all legal means.
18. It is Council's opinion that any legislative power delegated pursuant to this By-law is of a minor nature having regard to the number of people, the size of geographic area and the time period affected by an exercise of the power.
19. No proceeding for damages or otherwise may be commenced against the City, a member of Council or an officer, employee or agent of the City or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this

By-law or for any alleged neglect or default in the performance in good faith of the duty or authority.

By-law read a first, second and third time this 12th day of August, 2019.

Diane Therrien, Mayor

John Kennedy, City Clerk