

Summary of Trespass By-law

Heading	Summary
Trespass Notice	Means an oral or written notice prohibiting entry to one or more City premises by a person or group of persons
Exceptions	<p>Does not apply to:</p> <ul style="list-style-type: none"> • Transit property, as defined under By-law No. 16-111 <p>[Note: Director has authority under Transit By-law to prohibit people from using transit. Specialized approach to bans may be appropriate given unique circumstances of transit use.]</p>
Basis for Trespass Notice	"reason to believe that a person has engaged in prohibited conduct"
Prohibited Conduct	<p>“prohibited conduct” includes:</p> <ol style="list-style-type: none"> a. contravention of a law of Canada or Ontario or a municipal by-law; b. damage to or vandalism of a City premises; c. interference with the operation of a City premises; d. interference with others’ use of a City premises; e. contravention of a City of Hamilton policy governing the conduct of persons entering City premises;
Oral or Written	<ul style="list-style-type: none"> • Trespass Notice may be oral or written • Oral notices for longer than 7 days will be confirmed in writing as soon as is practicable
Factors in Giving Trespass Notice	<p>In determining whether to issue/extend, locations, duration, consider the following factors:</p> <ol style="list-style-type: none"> a. the feasibility and effectiveness of any warnings to the person or graduated restrictions placed on the person; b. any operational or staff requirements or limitations; c. the severity of the harm or potential harm caused by the person’s prohibited conduct to staff, members of the public or property; d. the person’s level of ability and circumstances; e. the history of the person’s conduct and interactions on City premises; f. the likelihood of recurrence of the prohibited conduct by the person; and g. the impact of restrictions or prohibitions on the person <p>[Note: Each circumstance where a ban is considered or given out is very fact specific. It is difficult to provide a guideline on the length of bans other than to say that longer and more restrictive bans are</p>

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	appropriate for more serious conduct. Accordingly, the list of factors is meant to guide the relevant fact-specific assessment.]
Short Suspension	<p>"authorized persons" can give immediate trespass notice for short period (up to 7 days)</p> <p>"authorized person" means any of the following persons:</p> <ul style="list-style-type: none"> a. a security guard employed by or under contract with the City; b. such persons employed by the City who, as a matter of their regular duties or due to circumstances, are responsible for and have control over the condition of any City premises or the activities there carried on, or control over persons allowed to enter the City premises; c. a municipal law enforcement officer; d. a police officer; and e. a senior staff person.
Up to 2 - year ban	<p>"senior staff person" can give/extend trespass notice for up to 2 years</p> <p>"senior staff person" means any of the following persons employed by the City of Hamilton:</p> <ul style="list-style-type: none"> a. a Manager, or person holding the equivalent rank of Manager; b. a Director, or person holding the equivalent rank of Director; and c. a senior executive person.
Up to 5 -year ban	<p>"senior executive person" can give/extend trespass notice for up to 5 years</p> <p>"senior executive person" means any of the following persons employed by the City of Hamilton:</p> <ul style="list-style-type: none"> a. the City Manager; and b. a General Manager;
Review every 2 years	<p>senior staff person can extend a ban for a further 2 years if, during the duration of the ban, the person has:</p> <ul style="list-style-type: none"> a. violated the Trespass Notice; or b. engaged in further or continued prohibited conduct.
"Indefinite Ban"	<p>For any ban issued by a senior staff person, it must be reviewed every 2 years (as above), but a senior staff person can describe a ban as indefinite when giving the notice if:</p> <p>"in the opinion of the senior staff person that is advisable in the circumstances, including that further communication of an extension of the Trespass Notice is likely to be challenging, confusing or inflammatory"</p>

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Revocation	Any Trespass Notice can be revoked, with such conditions as are appropriate, by the person who gave it or by someone to whom they report (directly or indirectly)
Appeal	<p>Notice of Appeal</p> <ul style="list-style-type: none"> • Person may appeal trespass notice longer than one month • Notice of appeal in writing to Clerk • Notice of appeal must be submitted within 3 weeks of receiving trespass notice <p>Appeal Hearing</p> <ul style="list-style-type: none"> • conducted by Appeal Officer in a manner that is appropriate to the circumstances of the person and the prohibited conduct, as determined by the Appeal Officer • Appeal Officer provides notice of appeal to person and senior staff person who issued notice • Powers on Appeal: Revoke, shorten, remove locations or affirm trespass notice • Decision of Appeal Officer is final (subject to Judicial Review, but no further appeal) <p>Appeal Officer</p> <ul style="list-style-type: none"> • Any one of: City Solicitor, Deputy City Solicitor, City Manager • Cannot have been involved in discussion of initial trespass notice
Meetings Exception	<p>Trespass Notices do not prevent persons from attending Council and Standing Committee meetings provided that:</p> <ol style="list-style-type: none"> a. the person notifies the City Clerk of their intention to attend the meeting no later than 24 hours prior to the scheduled start of the meeting; b. the person enters the meeting room no earlier than 15 minutes prior to the scheduled start of the meeting; c. the person remains in the meeting room no longer than 15 minutes after the meeting is adjourned; and d. the person complies with any directions given by the Chair of the meeting respecting conduct at the meeting.
Invitation to Attend	<ul style="list-style-type: none"> • Senior staff person can give permission to attend location where someone is banned for specific purposes at specific date/time/location • Person can request permission to attend from person who issued trespass notice if they request in writing with reasons why they need to attend