

To: Corporate Services Committee

From: Tracy Adams, Commissioner,  
Corporate Services Department

Report Number: CORP-21-19

Date of Report: April 7, 2021

Date of Meeting: April 12, 2021

Subject: Trespass By-law Review and Proposed Trespass Policy and  
Procedure

File: A-2100

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## **1.0 Purpose**

The purpose of this report is to respond to the March 29, 2021 direction of City Council (CNCL-21-22) that:

“Direct staff to undertake a review of other municipalities’ Trespass By-laws to update and modernize the City’s Trespass By-law for Council’s consideration and report back to the Corporate Services Committee.”

The report also recommends that Council approve the proposed Trespass Policy and Procedure and a new, modernized Trespass By-law.

Attachment 1 is the current Trespass By-law 98-2013, as amended (“Trespass By-law”).

Attachment 2 is the City’s Respect in the Workplace - Harassment and Violence Policy LR14.10.

Attachment 3 is the Council approved Respect Check Policy: Code of Conduct for Parks, Recreation and Culture (note: as per Council’s direction (CNCL-21-22) at its March 29, 2021 City Council meeting, the Policy is extended to all City facilities and properties).

Attachment 4 is the proposed new, modernized City Trespass By-law.

Attachment 5 is the proposed new, modernized City Trespass By-law with tracked changes.

Attachment 6 is the proposed Trespass Policy and Procedure.

Attachment 7 is the municipal benchmarking information.

## **2.0 Recommendation**

That the Corporate Services Committee recommend to Council:

1. That in accordance with Report CORP-21-19, dated April 7, 2021, concerning Trespass By-law Review and Proposed Trespass Policy and Procedure, the by-law recommendations outlined in Section 5.2 be endorsed; and,
2. That Council repeal Trespass By-law 98-2013 and replace it with the proposed new, modernized City Trespass By-law as set out in Attachment 4 in a form and content acceptable to the Commissioner, Corporate Services and the City Solicitor; and,
3. That the proposed Trespass Policy and Procedure as set out in Attachment 6 be approved.

## **3.0 Executive Summary**

Not applicable.

## **4.0 Input From Other Sources**

- City Clerk Services
- Corporate Leadership Team
- Corporate Security Manager
- Innovation and Transformation
- Municipal Law Enforcement and Licensing Services
- Operations Services
- Recreation and Culture Services
- Durham Regional Police Services
- Municipalities: Haldimand County, Hamilton, Mississauga, Ottawa, Sudbury

## **5.0 Analysis**

### **5.1 Background**

The City of Oshawa is committed to making reasonable efforts to provide an inclusive, healthy, safe and respectful environment for everyone at its facilities. The City has a variety of different properties and buildings which members of Council, City staff and the public access. These premises are accessed for a variety of purposes, including work, recreation and cultural activities, municipal and other programs and services, along with supporting public participation in democratic processes.

The City has a general legislated duty under the *Occupiers' Liability Act*, R.S.O. 1990, c 0.2, to take such care, as in all the circumstances is reasonable, for any persons entering on its premises, and the property brought on the premises are reasonably safe. The City has further duties under the *Occupational Health and Safety Act*, R.S.O. 1990, c 0.1, to address workplace violence and harassment and to:

- make reasonable efforts to provide a safe, healthy working environment for its employees;

- ensure that all persons on the property are reasonably safe while on the premises; and,
- make reasonable efforts to provide for the safety of Council members, employees and the public in City operations and in public use of City facilities.

The majority of individuals use City facilities and property in a responsible manner and conduct themselves appropriately. However, there are certain instances where individuals engage in activities that are not appropriate or acceptable. Accordingly, the City will not tolerate any form of violence, vandalism or inappropriate behaviour in its programs or on its facilities and properties. Individuals who fail to abide by City policies and municipal by-laws, or who otherwise engage in aggressive, disrespectful or intimidating behaviour, bullying, harassment, who use course language or engage in criminal behaviour while accessing a City property, program, service or event may be refused service and asked to leave the premises immediately. In addition, they may be issued a Trespass Notice.

### **5.1.1 Legislation**

The City has the right as an owner and occupier of premises to restrict or prohibit entry to such premises in accordance with the *Trespass to Property Act*, R.S.O. 1990, c. T.21, which governs the enforcement of that right.

The City also has the authority to enact by-laws respecting its public assets and the protection of persons and property pursuant to subsection 11(2) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended.

### **5.1.2 City Policies**

The City's Respect in the Workplace - Harassment and Violence Policy LR14.10 (see Attachment 2) outlines that it is the Corporation's goal to provide a healthy and safe work environment that is free from discrimination, harassment and violence of any kind.

In 2008, Council approved a Code of Conduct Policy to help promote acceptable behaviour in all City recreation and culture facilities (CS-08-116). In 2017, Council approved the Respect Check Policy: Code of Conduct for Parks, Recreation and Cultural facilities (see Attachment 3), aimed at promoting a positive, safe and supportive environment for all who visit any City recreation and culture facilities, parks, trails (CS-17-12). On March 29, 2021, Council extended the policy to all City properties and facilities (CNCL-21-22).

In 2017, Council approved the Diversity and Inclusion Plan, which contains the following action, under the Strategic Direction of Leadership "Establish formal procedures and guidelines for responding to acts of discrimination and hate occurring in the community."

In 2019, Council approved CNCL-20-140 which resolved to support zero tolerance against racism and condemn all racist acts of violence.

### **5.1.3 Trespass By-law 98-2013**

In 2013, Council approved the Trespass By-law (see Attachment 1) to establish a system to administer notices and other matters in accordance with the *Trespass to Property Act* (Report CORP-13-86-CM and Report CORP-13-154-CM).

The Trespass By-law is a tool to manage and deter security risks and ensure the safety of residents and staff in City facilities and properties. The Trespass By-law:

- defines prohibited conduct in which a Trespass Notice may be issued;
- identifies who has the delegated authority to issue a Trespass Notice;
- establishes time periods for a Trespass Notice - up to 3 days and up to 6 months; and,
- outlines an appeal process to the Council-appointed Hearings Officer.

Annually, the City issues approximately 40 Trespass Notices in accordance with the Trespass By-law. The majority of the Trespass Notices are for three (3) days and are in response to aggressive behaviour by individuals.

In 2015, Council approved updates to the Trespass By-law to establish an exemption that would permit a person to attend a Committee or Council meeting notwithstanding that the person's attendance would otherwise be prevented by a Trespass Notice (Report CORP-15-08).

Since then, minor Council-approved amendments to "Authorized Persons" have been made to the Trespass By-law to reflect organizational and responsibility changes (see Attachment 1). At this time, it is appropriate for the Trespass By-law to be modernized to reflect best practices of other municipalities and to develop a Policy and Procedure to centralize and standardize the administrative process for issuing Trespass Notices under the Trespass By-law.

## **5.2 Proposed Changes to the City's Trespass By-law 98-2013, as amended**

Upon review of other municipality's by-laws and policies relating to addressing prohibited conduct on City properties, the following are proposed recommendations to modernize the City's Trespass By-law (see Attachment 4 for the proposed, new By-law and Attachment 5 for the proposed, new By-law with tracked changes).

### **5.2.1 Authorized Persons**

All Authorized Persons who have the authority to issue Trespass Notices are required to consider and/or implement all possible alternative measures before issuing a Trespass Notice. "Authorized Persons" are currently defined under the Trespass By-law as including:

- a security guard employed by or under contract with the City;
- 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;

- a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police;
- a Senior Staff Person;
- a Municipal Law Enforcement Officer appointed to enforce the By-laws of the City; and,
- Corporate Security Manager.

It is recommended that employees of the Operations Services Branch at the rank of Supervisor or higher be included as an Authorized Person given the nature of their responsibilities and the time sensitivity in providing a frontline response to issues related to Prohibited Conduct in the City's parks and trails. In addition, it is proposed that "Senior Staff Person" only include Directors and a new definition "Senior Executive Staff Person" be added which would include any member of the Corporate Leadership Team, the Corporate Security Manager and the Director, Facilities Management Services as they would have the responsibility of issuing Trespass Notices for a longer period of time should the need arise.

### **5.2.2 Prohibited Conduct**

Prohibited Conduct is currently defined as:

- damage to a City Facility;
- interference with the operation of a City Facility;
- interference with others' use of the City Facility; or
- contravention of a law of Canada, a law of the Province of Ontario or a municipal by-law.

It is recommended the proposed wording "contravention of a City of Oshawa policy governing the conduct of Persons entering City Facility" be added as well as a reference to vandalism.

### **5.2.3 Oral or Written Notice**

The Trespass By-law outlines a written process in serving notice. It is recommended that a Trespass Notice may be given orally or in writing. If given orally and prohibiting entry to no more than one City Facility, the oral Trespass Notice shall be documented in writing as soon as it is practicable.

### **5.2.4 Factors in Issuing a Trespass Notice**

The Trespass By-law does not outline factors to consider when issuing a Trespass Notice. It is recommended that the following factors be considered when determining whether to give or extend a Trespass Notice, the locations where entry is prohibited and the duration of the prohibition:

- the feasibility and effectiveness of any warnings to the Person or graduated restrictions placed on the Person;

- any operational or City Employee requirements or limitations;
- the severity of the harm or potential harm caused by the Person's Prohibited Conduct to City Employees, Council, Contracted Service Providers, Students, Volunteers, members of the public or City Facility;
- the Person's level of ability and circumstances;
- the history of the Person's conduct and interactions on City Facility;
- the likelihood of recurrence of the Prohibited Conduct by the Person; and,
- the impact of restrictions or prohibitions on the Person.

### **5.2.5 Term or Duration of the Trespass Notice**

The Trespass By-law outlines that an Authorized Person may issue a Trespass Notice for a period not exceeding three (3) days. A Senior Staff Person (defined as the City Manager, each Commissioner and each Director of the City) may extend or give a Trespass Notice not exceeding six (6) months.

Information from other municipalities related to Trespass Notice duration are provided in Attachment 7. Based on the information contained in Attachment 7 and to ensure a consistent approach, it is recommended that the City Trespass Notice durations and authorizations be modified as outlined below:

- an Authorized Person may issue a Trespass Notice for a period not more than seven (7) days; and,
- a Senior Staff Person may issue a Trespass Notice for a period not exceeding one (1) year; and,
- a Senior Executive Staff Person may issue a Trespass Notice for a period not exceeding three (3) years; and,
- the Chief Administrative Officer may issue a Trespass Notice for a period not exceeding five (5) years.

The longer time durations are proposed for more serious, health and safety Prohibited Conduct as noted in Attachment 6, Section 4.3.

### **5.2.6 Application to Extend the Term of the Trespass Notice**

Currently, a Senior Staff Person defined as the City Manager, each Commissioner and each Director of the City, are required to apply to the Hearings Officer to extend or further extend the term of the Trespass Notice. It is recommended that this be removed to align with other municipalities who delegate such decisions to a Senior Executive Staff Person.

Factors that would be considered by the Senior Executive Staff Person on whether to extend the Trespass Notice would address whether the individual violated the Trespass Notice or engaged in further or continued Prohibited Conduct.

Those who receive a Trespass Notice are able to appeal to the Hearings Officer if the term of the Trespass Notice exceeds one month. Trespass Notices remain in effect during the appeal period.

### **5.2.7 Request and Invitation to Attend**

Currently, the Trespass By-law permits the Person who has received a Trespass Notice to attend a meeting as long as they comply with the conditions outlined in the Trespass By-law such as notifying the City Clerk, entering and leaving the meeting room at the specified times and complies with each direction given by the Mayor or the Committee Chair, as applicable, respecting conduct at the meeting.

It is recommended that additional flexibility be included to provide the Person who has received a Trespass Notice a 'Request for Invitation to Attend' a City premise should the need arise. The 'Request for Invitation to Attend' would address the purpose for attending the City premise; the date and time; the address of the City premise; who to contact when the person arrives and that the Trespass Notice remains in effect except for the approved attendance in accordance with the 'Request for Invitation to Attend'. An example of a 'Request for Invitation to Attend' would be to apply for a marriage license.

It is also recommended that an 'Invitation to Attend' could be issued by a Senior Staff Person or Senior Executive Staff Person to the Person who has received a Trespass Notice to attend a City Facility as set out in the proposed Trespass By-law. An example of an 'Invitation to Attend' would be to meet with the Hearings Officer.

The manner in which a Person, who has received a Trespass Notice and is attending at a City Facility would be determined by the Senior Staff Person, and which may include the option of electronic participation including but not limited to: telephone, video conferencing and computers with Internet access and conferencing software or programming.

### **5.3 Proposed Policy and Procedure**

In October 2020, the Corporate Security Manager was hired by the City. The Corporate Security Manager is responsible for the management and administration of security operations for the City. This includes developing, implementing and monitoring the Corporate Security Program in collaboration with City departments including the protection of City Council, City employees and the public and its physical assets. It also includes overseeing the implementation of the City's Trespass By-law.

To establish corporate standards in implementing the Trespass By-law, it is important to develop a Trespass Policy and Procedure (see Attachment 6) to centralize and standardize the administrative process for issuing Trespass Notices.

The proposed Trespass Policy and Procedure reflects the recommended new, modernized Trespass By-law and also provides:

- examples of Prohibited Conduct;
- factors to consider in giving a Trespass Notice;
- procedure for issuing a Trespass Notice;
- formats of Trespass Notices; and,
- roles and responsibilities.

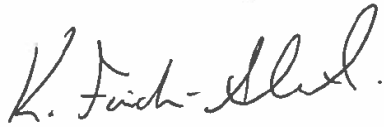
In accordance with the proposed Trespass Policy and Procedure, consideration should be given to all possible alternative measures before issuing a Trespass Notice. As part of the implementation of the proposed new, modernized Trespass By-law and Trespass Policy and Procedure, internal communications and training will be provided to ensure roles and responsibilities are understood to ensure a more consistent corporate approach.

## **6.0 Financial Implications**

There are no financial implications with this Report.

## **7.0 Relationship to the Oshawa Strategic Plan**

This report supports the Oshawa Strategic Plan goals of Accountable Leadership and Social Equity.



Kevin Alexander, Director,  
Facilities Management Services



Sam Yoon, City Solicitor,  
Legal Services



Tracy Adams, Commissioner,  
Corporate Services Department

Attachments



CONSOLIDATED AS AMENDED BY BY-LAWS 24-2015, 89-2020 and 13-2021



**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;
  - (e) a Municipal Law Enforcement Officer appointed to enforce the By-laws of the City. (89-2020) and;
  - (f) the Corporate Security Manager. (13-2021)
- 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; (24-2015)
- 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. (24-2015)

### **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 (24-2015) in which case:

- 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 (24-2015), 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.
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, Facilities Management 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. (13-2021)
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.

“Original by-laws signed by the Mayor and City Clerk”

|   |                            |                     |                        |
|---|----------------------------|---------------------|------------------------|
| <b>Policy: Respect in the Workplace – Harassment and Violence Policy</b>      |                            |                     |                        |
| <b>Issued:</b> 1989 10 31   | <b>Revised:</b> 2016 08 09 | <b>Page:</b> 1 of 8 | <b>Number:</b> LR14.10 |
| <b>Replaces:</b> H& S Policy – SWS Section 1.06 Preventing Workplace Violence |                            |                     |                        |

## Policy Statement

The Corporation of the City of Oshawa is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization. It is the Corporation's goal to provide a healthy and safe work environment that is free from discrimination, harassment and violence of any kind.

## Purpose

This policy and procedures are intended to:

1. Promote and support a work environment free from harassment and workplace violence.
2. Provide definitions of harassment and workplace violence.
3. Identify the responsibilities of the workplace parties to maintain a workplace free of harassment and actual, attempted or threatened violence.
4. Establish procedures for reporting, resolving and investigating harassment complaints or workplace violence.

## Scope

This policy applies to all employees, representatives, agents, contractors, clients and volunteers. It applies to any location where employees are engaged in work-related activities. This includes, but is not limited to:

- the workplace
- during work-related travel
- at restaurants, hotels or meeting facilities that are being used for business purposes
- in municipal-owned or leased facilities
- during telephone, email or other communications; and
- at any work-related social event, whether or not it is company sponsored

This policy also applies to situations in which an individual is harassed or subjected to violence in the workplace from individuals who are not employees of the organization. The Corporation will make its best effort to mitigate these situations, however in the course of public service, events may be beyond the Corporation's control.

## Definitions

Behaviours associated with harassment and violence in the workplace fall under the broad categories of discrimination, sexual harassment, workplace harassment (bullying) and workplace and domestic violence; please refer to Annex A for detailed definitions.

## The Test of Harassment

It does not matter whether a person intended to offend someone. The test of harassment is whether they *knew* or *should have reasonably known* that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case that person must immediately stop that behaviour.

Although it is commonly the case, the harasser may not necessarily hold power or authority over the recipient. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor.

## What Isn't Harassment

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- measures to correct performance deficiencies, such as placing someone on a performance improvement plan,
- imposing discipline for workplace infractions,
- requesting medical documents in support of an absence from work; or
- normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

## Corporation's Commitment

The Corporation of the City of Oshawa is committed to maintaining an environment free from discrimination, harassment or violence in the workplace. This includes promoting awareness of this policy and procedure and applicable legislation and investigating issues of harassment and violence consistent with this policy. The Corporation will review this policy annually.

## Preventing Harassment and Violence

It is our mutual responsibility to ensure that we create and maintain a harassment and violence-free workplace and address violence and/or the threat of violence from all possible sources (including customers, employers, supervisors, workers, strangers and domestic/intimate partners).



## Responsibilities of Supervisors and Managers

Supervisors and managers will ensure this policy is communicated to staff and that complaints are handled with sensitivity and incidents of violence, discrimination, intimidation or harassment are addressed as quickly as possible. Whether or not a complaint has been brought forward it is management's responsibility to investigate and address any issues of which they are aware.

It is the responsibility of Management to ensure that workplace discrimination, violence or harassment does not occur in their departments and to ensure protection from retaliation for any employee who has made a complaint in good faith. The Director, Human Resource Services should be contacted immediately, if a complaint of workplace harassment or violence is received.

Supervisors and managers must also take every reasonable precaution to protect employees from workplace violence, including evaluating a person's known history of violent behaviour to determine whether this employee poses a risk and to whom. In making this evaluation, supervisors should consider:

- whether the person's history of violence was associated with the workplace or work;
- whether the history of violence was directed at a particular employee or employees in general,
- how long ago the incidence of violence occurred.

In certain circumstances, supervisors and managers may have a duty to provide information about a risk of workplace violence from a person with a history of violent behaviour, if an employee can be expected to encounter that person during the course of his or her work, and the risk of workplace violence may expose the employee to physical injury. Supervisors and managers are required to consult with the Director, Human Resource Services, prior to releasing information about a person with a history of violence.

## Responsibilities of All Employees

Employees are responsible for knowing and following this policy and demonstrating respectful workplace behaviour at all times. Employees should treat others in a professional manner with courtesy and respect and discourage any behaviour that can be seen as harassing or violent. Employees are responsible for their actions and are expected to change their conduct when advised that their behaviour is unacceptable.

Employees are required to report to their supervisor or the Director, Human Resource Services, the existence of any workplace violence or threat of workplace violence.

Employees are also obligated to participate in the investigation process when identified as a witness or a respondent in a complaint; failure to do so may result in disciplinary action up to and including dismissal.

## Procedures for Resolving and Investigating Harassment Complaints

### Informal Procedure

If you believe that you are being harassed, the first thing to do is to tell the person to stop. Do so as soon as you receive any unwelcome comments or conduct. Although this may be difficult to do, telling the person you don't like their actions is often enough to stop the behaviour. Some of the things you can say that might stop the behaviour include:

- "I don't want you to do that."
- "Please stop doing or saying..."
- "It makes me uncomfortable when you ..."
- "I don't find it funny when you ..."

If the harassment continues after you have confronted the individual, you may provide him or her with a written statement of the situation. Include specific details of the behaviours you consider to be harassing, your request to the harasser to stop and your expectations that he or she will stop. Provide details of the next steps you plan to take if the harassment does not stop e.g., filing a formal complaint, notifying a supervisor. Please keep a copy of this statement for yourself.

Keep a record of any incident(s) that you experience. This includes when the harassment started, what happened, whether there were any witnesses and your response.

If you believe that someone who is not a member of our organization, e.g., a customer, supplier, etc., has harassed or discriminated against you, please report the harassment to your Manager/Supervisor. Although the Corporation has limited control over third parties, we will do our best to address the issue and prevent further problems from arising.

### Formal Procedure

If the complaint cannot be resolved informally or it is too serious to handle on an informal basis, it should be brought to the attention of your Manager/Supervisor. Failing resolution at this level, you may bring a formal complaint to the Director, Human Resource Services. Complaints that name a Manager/Supervisor that you report to, may be brought directly to Human Resources.

If you bring a formal complaint, provide as much written information as possible, including;

- name of the person you believe is harassing you,
- place, date and time of the incident(s), and
- names of any possible witnesses.

A copy of the Workplace Respect Complaint form (Annex B) is available electronically (J:\Forms\Workplace Respect Complaint Form) or on the intranet (My HR/Policies and Procedures/Respect in the Workplace) or from Human Resources. It is important that your complaint is received as soon as possible so that the problem doesn't escalate or happen again.

Once your complaint is received, it will undergo a preliminary review to assess whether a formal investigation will be initiated. Single incidents or incidents indicative of typical workplace conflict may not be investigated unless the behaviour is deemed as particularly egregious in nature.

Complaints that will not proceed to a formal investigation will be referred back to managerial staff in the affected area to address.

Discrimination and harassment are serious matters. Therefore, if you decide not to make a formal complaint, the matter may still need to be investigated and steps taken to prevent further harassment. For example, we may need to continue with an investigation if the allegations are serious or if there have been previous complaints or incidents involving the respondent.

**Please note:** anonymous complaints will not be investigated unless there are extenuating circumstances.

## Investigation Procedure

The Director, Human Resource Services, will appoint an internal or external investigator, depending on the nature of the complaint. The investigator and Director, Human Resource Services will determine if an investigative panel is required and if so who shall be part of the panel (i.e. Operational Managers, Union Executive, additional HR representatives). Once this is determined, the investigation will commence as quickly as possible.

The investigation may include:

- interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations
- interviewing witnesses, if any
- reviewing any related documentation; and
- making detailed notes of the investigation and maintaining them in a confidential file

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings to the Director, Human Resource Services. A summary of the findings will also be provided to the complainant, respondent and union representative where appropriate. All recipients are expected to maintain confidentiality; failure to do so may result in disciplinary action.

Where possible, investigation and communication of results to the complainant and respondent will occur within thirty days after a complaint is received. The alleged harasser and complainant will be informed in writing of any corrective action that has been taken or will be taken as a result of the investigation.

## Potential Outcomes

The Director, Human Resource Services, will determine what action should be taken as a result of the investigation.

If a finding of harassment is made, the Corporation of the City of Oshawa will take appropriate corrective measures, regardless of the respondent's seniority or position in the Corporation.

The Corporation's response to findings of harassment may include one or more of the following:

- discipline, such as a verbal warning, written warning or suspension without pay
- referral for counseling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect
- a demotion or denial of a promotion
- reassignment or transfer
- any other disciplinary action deemed appropriate under the circumstances up to and including termination with or without cause

The Director, Human Resource Services, has the authority to place employees in suitable positions temporarily or permanently to ensure the purpose of this policy is met.

If there is not enough evidence to substantiate the complaint, corrective measures will not be taken.

## **Procedure for Resolving and Investigating Workplace Violence**

### **Workplace Violence**

You have the right to refuse work if workplace violence is likely to endanger you. In that instance, please immediately contact your supervisor at which point appropriate measures will be taken to protect you and investigate the situation. You will be moved to a safe place as near as reasonably possible to your normal work station and will need to be available for the purposes of investigating the incident. In some circumstances, you may be provided with reasonable alternative work during normal working hours.

In appropriate circumstances, we may contact the police, or other emergency responders as appropriate, to assist, intervene or investigate workplace violence.

### **Investigation Procedure**

You are required to report the existence of any workplace violence or threat of workplace violence to your supervisor or the Director, Human Resource Services. The Manager, Human Resource Services and Safety will commence an investigation as quickly as possible. An internal or external investigator may be appointed, depending on the nature of the incident.

The investigation may include:

- conducting interviews of relevant individuals to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations
- reviewing any related documentation; and
- making detailed notes of the investigation and maintaining them in a confidential file

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings.

## Potential Outcomes

The *Director, Human Resource Services*, will determine what action should be taken as a result of the investigation.

If a finding of workplace violence is made, The Corporation of the City of Oshawa will take appropriate corrective measures, regardless of the respondent's seniority or position in the Corporation.

The Corporation's response to findings of workplace violence may include one or more of the following:

- discipline, such as a verbal warning, written warning or suspension without pay
- termination with or without cause
- referral for counseling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect
- a demotion or denial of a promotion
- reassignment or transfer
- any other disciplinary action deemed appropriate under the circumstances

The Director, Human Resource Services, has the authority to place employees in suitable positions temporarily or permanently to ensure the purpose of this policy is met.

## Procedures for Addressing Domestic Violence

If you are experiencing domestic violence that could lead to disruption, intimidation or physical injury in the workplace, you may seek immediate assistance by contacting the Director, Human Resource Services, who will appoint appropriate resources in preventing and responding to the situation.

## Confidentiality of Complaints and Investigations

The Corporation recognizes the sensitive nature of harassment and violence complaints and will keep all complaints confidential, to the extent possible. Information will only be released as necessary to investigate and respond to the complaint or situation or if required to do so by law.

Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards.

**Protection from Retaliation**

The Corporation of the City of Oshawa will not tolerate retaliations, taunts or threats against anyone who complains about harassment or takes part in an investigation. Any person who taunts, retaliates against or threatens anyone in relation to a harassment or violence complaint may be disciplined up to and including termination.

If you make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline and/or retributions. Those who are named in a complaint, regardless of the outcome, shall not retaliate in any manner. The Corporation of the City of Oshawa may however, discipline up to and including termination, anyone who brings a false and malicious complaint or who engages in retaliatory behavior after being named in a complaint

Notwithstanding this policy, an employee has the right to pursue his or her complaint through the Ontario Human Rights Commission or the Ministry of Labour.

**APPROVED**

|   |                                   |  |
|---|-----------------------------------|--|
| <p><b>Authority</b><br/>Executive Director, Human Resource Services</p> | <p><b>Date</b><br/>2016 08 09</p> | <p><b>Signature</b><br/><i>Jackie Long</i></p> |
|---|-----------------------------------|--|

- Attachments  
 Annex A – Definitions  
 Annex B – Workplace Respect  
 Complaint Form  
 Annex C – FAQ’s (Frequently Asked Questions)

- Authority  
 Ontario Human Rights Code  
 Occupational Health and Safety Act of Ontario (R.S.O. 1990, c. 0.1)  
 Criminal Code of Canada  
 City of Oshawa Health and Safety Policy

**Policy:** Respect Check

**Department:** Community Services

**Branch:** Recreation & Culture Services

**Related Policies:** Respect in the Workplace-LR14.10; City of Oshawa, Code of Conduct Policy – AG10.80; Ontario Health and Safety Act, City of Oshawa Trespass Act; Trespass By-law 98-2013, as amended

## **Respect Check Code of Conduct Policy**

### 1.0 Purpose/Background

The City of Oshawa is committed to creating and promoting a safe, healthy, respectful and welcoming environment where there is respect for others and responsibility for all actions.

Respect Check is a code of conduct policy, which enforces a set of expectations to address inappropriate behaviours, violence, and vandalism that negatively affects the experience of individuals or creates unsafe conditions. The Respect Check policy identifies how these behaviours will be addressed when it occurs within any City facility or in association with any service, program or event provided by, or associated with, the City of Oshawa and outlined in this document.

The City encourages and supports all organizations using City facilities to take primary responsibility for developing, implementing and managing their specific behaviour management policies to align with the City policy. The Corporation will make its best effort to mitigate all situations, however in the course of public service, events may be beyond the Corporation's control. The policy is aligned with the following policies, acts and regulations:

- City of Oshawa - Respect in the Workplace – Harassment and Violence Policy LR14.10;
- Trespass to Property Act
- City of Oshawa – Trespass By-Law 98-2013
- Occupational Health and Safety Act, R.S.O. 1990, c. 0.1;
- The True Sport Movement: Canadian Centre for Ethics in Sport

### 2.0 Policy Statement

The City's recreation, culture and parks programs, facilities and properties are places that promote learning and support leisure opportunities for members of the community. In keeping with the True Sport initiative, a patron's experience with us is based on the values of fairness, excellence, inclusion and fun. All persons (members of the public, staff and volunteers) have the right to be safe and to feel safe while attending or working at a program, facility or property so that they can enjoy their activity sport, or interest. With this right comes the responsibility to be accountable for actions or

behaviours that put at risk the safety of others and encourages an environment where there is respect for others. The City of Oshawa has zero tolerance for any form of violence, vandalism, or inappropriate behavior in its recreational programs, facilities or properties.

### 3.0 Definitions

**City Facility:** includes both indoor and outdoor facilities, owned, leased, rented, allocated, programmed, operated or managed by the City, intended for public or staff use. This includes, but is not limited to City Hall, Civic Square, recreation facilities, arenas, pools, sports facilities and fields, parks, playgrounds, staff offices, meeting rooms, reception desks, community meeting spaces, trails and parks.

**Harassment:** engaging in a course of vexatious comment or conduct against another person in a public place that is known or ought reasonably know to be unwelcome, with some or all of the following components: it is generally repetitive, although a single, serious incident may constitute workplace harassment if it undermines the recipient's psychological or physical integrity and has a lasting harmful effect; it is hostile, abusive or inappropriate; it affects the person's dignity or psychological integrity and it results in a poisoned work environment. Behaviour that intimidates isolates or discriminates against the recipient may also be included.

**Letter of Warning:** explanation in written format the details of what happened, what was said and done; issues stemming from misconduct, identify City's policy and provide statement of future expectations to correct the misconduct, description of the action to be taken if problem not corrected, provide any required supporting documents (photos,)

**Ontario Health and Safety Act:** an Act to promote occupational health and safety among employers, workers and others.

**Ontario Human Rights Code:** is a law in the province of Ontario that gives all people equal rights and opportunities without discrimination in specific areas such as housing and services

**Senior Staff Person:** means the City Manager, each Commissioner and each Director of the City.

**Structured Activity:** facility permit issued; registered or scheduled drop-in recreation program

**Trespass to Property Act:** a provincial law in Ontario dealing with illegal entry into private and public property.

**Trespass Notice:** is authorized under the *Trespass to Property Act* and is a written notice prohibiting an individual from entering specific City facilities for a specific duration and is issued to an individual for the purpose of imposing a ban.



**Trespass By-law:** is a City of Oshawa By-law that establishes a system for administering notices and other matters under the Trespass to Property Act. Respect Check is intended to act as a precursor, and does not replace, the Trespass By-law.

**Unstructured Activity:** no permit issued; drop-in programs, events.

**Vandalism:** means the malicious, willful and deliberate destruction, damage, defacing of property owned, leased, or permitted through the City.

**Violence:** physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property, throwing objects; verbal or written threats to physically attack a worker, client or patron; leaving threatening notes or threatening emails; wielding a weapon at work; stalking someone; and physically aggressive behaviours including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any other form of physical or sexual assault.

## 4.0 Scope/Application

### 4.1 Properties and Users

The Respect Check policy applies to all staff, contractors employed by the City of Oshawa and users of Parks, Recreation and Culture programs, municipally owned or leased facilities or properties. Users are, including but not limited to, patrons, guests, spectators, fans, coaches, players, parents, volunteers and staff (which includes all full time, part-time and students).

Nothing in this policy is intended to diminish the scope of authority conferred by Council pursuant to Trespass By-law 98-2013, as amended. The Trespass By-law 98-2013, as amended, prevails to the extent of any inconsistency between it and this policy.

### 4.2 Structured and Unstructured Activities

The Respect Check policy covers structured (i.e. facility use permit issued, registered programs) and unstructured (i.e. no permit issued, drop-in programs, events) activities. This policy applies to in-person interactions and all forms of verbal communication and written communication (email/letters).

### 4.3 Inappropriate Behaviours and Violence

Inappropriate behaviours and violence for the purpose of this policy includes, but is not limited to, the following:

- a. Loud verbal assaults directed at participants, officials, members of the public or City staff deemed to be aggressive, intimidating, or having the potential of inciting violence.
- b. Threats and/or attempts to intimidate;
- c. Throwing of articles in a deliberate or aggressive manner;
- d. Actual or attempted aggressive approaches to another individual including physical or verbal assault;

- e. Sexual harassment. Examples include but are not limited to sexual advances or demands; threats, leering, sexually suggestive or obscene comments or gestures, unwelcome remarks, jokes, innuendoes, propositions or taunting, unwanted attention, physical contact of a sexual nature, sexual assault.
- f. Attempts to goad or incite violence in others;
- g. Theft of property;
- h. Possession of weapons;
- i. Vandalism of any kind to a City building or property;
- j. Refusal to abide by facility rules and/or posted notices in City of Oshawa facilities and/or on City of Oshawa property;
- k. Racial or ethnic slurs;
- l. Illegal consumption of alcohol or drugs or other substances;
- m. Harassment which may include the wearing of attire, the displaying of material or the use of language that is intolerant of human rights;
- n. Contravention of City By-Laws or Policies;
- o. Contravention of any provincial or federal laws e.g. any illegal activity;
- p. Engagement in a course of annoying comment or conduct;
- q. Displaying of abusive or offensive materials, words, images;
- r. 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;
- s. Criminal behaviour of any kind whatsoever.

## 5.0 Responsibilities

Staff and attendees at City recreation facilities, parks and trails are responsible for acting and behaving in a manner that **respects** the rights of others and enables the enjoyment of individual and public benefits of recreation to promote an environment that can be enjoyed by all. A fair, safe and open atmosphere increases accessibility and opportunities for participation in all levels and types of activities, while providing a welcoming, culturally diverse community.

### 5.1 Role of City Staff

Recreation and Culture Services and Parks Operations staff are responsible for overseeing and implementing the Respect Check policy and program. Responsibilities include:

- a. Review Respect Check policy annually and update as needed
- b. Developing all procedural aspects related to this policy (e.g. forms, processes)
- c. Developing Respect Check signage to be posted at all city facilities
- d. Including a requirement to abide by the respect Check policy as a term and condition for use of a facility
- e. Following and implementing the Respect Check policy and procedure
- f. Monitoring and identifying violations of the policy and/or procedure
- g. Reporting all incidents to their immediate supervisor or manager promptly
- h. Completing appropriate forms to document incidents and/or in response to a complaint from members of the public, volunteers or other individuals.
- i. Participating in investigation processes as required
- j. Providing training and education to staff to support both the policy and procedure

- k. Including promotion of Respect Check in ongoing promotional vehicles i.e. activeOshawa guide, website and other media advertising
- l. Applying Respect Check in all City programming to provide participants and visitors a safe and positive environment.
- m. Bringing awareness to inappropriate behaviour demonstrated; engage police or security if an individual or group continues to be uncooperative.

Recreation and Culture Services and Parks Operations staff will also work in partnership with the community to ensure everyone has the opportunity to enjoy a respectful and positive environment. Staff will work collaboratively and in consultation with community sport and recreation organizations/groups to create Respect Check environments at City parks and trails.

## 5.2 Role of Organizations

Organizations and user groups making use of City facilities, parks and trails are responsible for:

- Educating their attendees about the Respect Check policy and appropriate behaviour
- Compliance of requirements of City contracts and permits regarding Respect Check
- Applying Respect Check to their programs, including being willing to address Respect Check violations with their attendees.

Included in this commitment is an understanding that organizations that rent city facilities must take primary responsibility for the behaviours of participants, instructors, players, coaches, officials and spectators. Organizations will be expected to abide by the Respect Check policy as a term and condition for use of a permitted facility. When an organization experiences ongoing or unresolved issues when dealing with associated participants, volunteers, parents, spectators etc., they are urged to assign a delegate to meet with a City representative to review the issues and develop approaches to assist the organization in or City will have final say into any decision, which may result in a ban or trespass ban.

## 5.3 Role of Individuals

The City's primary concern is the safety of the users, staff and contracted employees. If at any time users or staff feel personally threatened, they are to call the Police immediately. It is not the expectation that staff or patrons put themselves at risk or jeopardize one's safety in dealing with any perceived or real situation.

Program participants, spectators, parents, guests, volunteers, officials and the public are responsible for:

- Creating and encouraging opportunities for people to get together through sport or activity; creating safe places and spaces that are hospitable and conducive to the safe enjoyment of all while visiting our city facilities, programs, parks and trails.
- Behaving and acting in a manner that respects the rights of others in order for the services to be used and enjoyed by all
- Complying with requirements of City contracts and permits regarding Respect Check and/or promote the Respect Check policy with their program attendees.

- Reporting acts of violence, vandalism or inappropriate behaviours and incidents witnessed to a City staff member and/or a designated person.
- Provide details to staff for completing a written report immediately following the incident

## 5.4 Role of City Council

Oshawa City Council is responsible for approving, promoting and complying with the Respect Check policy.

## 6.0 Practice/ Procedures

### 6.1 Education

The City, with community sport organizations and other stakeholders, will conduct promotional and educational campaigns with the goals of:

- Raising awareness of the policy for attendees, and appropriate City employees, contractors or agents
- Outlining how attendees/organizations/users can support the Respect Check policy (e.g. through attendees setting positive example, encouraging organizations to have internal policies consistent with the Respect Check policy; how attendees can report inappropriate behaviour, etc.)
- Outlining the potential consequences of non-compliance with the Respect Check policy
- Reviewing promotional materials and work together with volunteer organizations to raise awareness of the policy.
- Providing initial Respect Check orientation sessions with staff and annual training sessions
- Promotional and educational campaigns will include:
  - The promotion of the True Sport four values: fairness, inclusion, excellence and fun
  - The promotion of the True Sport seven principles: strive for excellence, play fair, respect others, keep it fun, stay healthy, include everyone and give back.
  - Posting Respect Check policy and related information on the City website
  - Posting Respect Check policy signage at City recreation facilities
  - Making information pamphlets available at City recreation facilities and promoting in activeOshawa guide
  - Including Respect Check policy awareness in City employee training programs
  - Referencing Respect Check policy within Conditions of Use/Rules and Regulations for Permit Holders

## Violation of Respect Check Policy

### 6.2.1 Staff

The City's primary concern is the safety of members of the public, employees and volunteers. Parks, Recreation and Culture Services employees who observe inappropriate behaviour, or have reason to believe inappropriate behaviour has occurred on a City recreational property or facility will report incidents of prohibited inappropriate behaviours to their immediate supervisor or manager (who may subsequently report the incident to City Security) as soon as possible or immediately following the event.

Acts of workplace violence against staff are to be reported to the employee's supervisor immediately following the event and in accordance with the City's Respect in the Workplace – Harassment and Violence Policy.

City employees who are advised of or receive a complaint of prohibited inappropriate behaviour from a patron will report it to their supervisor or manager as soon as possible. Depending on the severity, incidents occurring on weekends and beyond regular business hours will be reported to the appropriate on-call supervisor or manager. Staff reporting incidents at outdoor parks and facilities, will contact the on-call Operations supervisor. All employees are to contact Durham Regional Police Services and/or City Security if an individual refuses to cease the behaviour when asked.

If, at any time, staff feels physically threatened, Durham Regional Police must be contacted immediately. It is NOT the expectation that staff put themselves at risk or jeopardizes one's safety in dealing with any perceived or real situation. Staff are **not** to engage in physical confrontations when addressing inappropriate behaviours. The Trespass By-law 98-2013, as amended, establishes a process for issuing trespass notices.

### 6.2.2 Patrons

Patrons at City parks, recreation and culture facilities who observe prohibited inappropriate behaviour under the Respect Check policy should report it to a City employee as soon as possible upon witnessing the behaviour. Patrons will be asked to provide detailed information to staff to assist in the completion of an incident report.

If, at any time, facility patrons feel physically threatened, Durham Regional Police must be contacted immediately. It is NOT the expectation that patrons put themselves at risk or jeopardize one's safety in dealing with any perceived or real situation. Patrons are **not** to engage in physical confrontations when addressing inappropriate behaviours.

### 6.2.3 Documentation

Staff will complete incident reports when a violation of the Respect Check policy has occurred. Incident reports are required to formally keep track of occurrences encountered in the workplace, repeat offenders, or an escalating situation. All documented incidents and files will be retained by Recreation and Culture Services Branch, and a copy forwarded to Manager, Human Resources Services and Safety to

distribute to the Joint Health and Safety Committees for their review, regardless if the incident occurred inside facilities or at outside facilities.

#### 6.2.4 Investigations

In addition to documenting incidents, an investigation may occur which could include:

- conducting interviews of relevant individuals to gather all of the facts and circumstances relevant to the complaint, including date(s) and location(s)
- reviewing any related documentation
- making detailed notes of the investigation and maintaining them in a confidential file

Once an investigation is complete, the investigator(s) will prepare a detailed report of the findings. This report will be submitted to the manager for further direction and follow-up.

#### 6.2.5 Penalties

Where a finding has been made of a violation of the Respect Check policy, consideration will be given as to the appropriate remedies collaboratively through the appropriate branch Managers / Directors

### 6.3 Monitoring and Evaluation

Recreation and Culture Services will regularly monitor and evaluate the effectiveness of the Respect Check policy with staff and organizations.

May 1, 2017 City Council Adopted Respect Check Policy



**By-law -2021  
of The Corporation of the City of Oshawa**

Being a by-law to repeal By-law 98-2013, as amended, and replace it with a new Trespass By-law, of The Corporation of the City of Oshawa (the "Trespass By-law").

Whereas:

1. the City of Oshawa has the right as an owner and occupier of premises to restrict or prohibit entry to such premises, and the *Trespass to Property Act*, R.S.O. 1990, c. T.21 governs the enforcement of that right; and,
2. the Council of the City of Oshawa recognizes its responsibility to exercise its rights in accordance with the *Canadian Charter of Rights and Freedoms*; and,
3. the Council of the City of Oshawa desires to replace the former Trespass By-law 98-2013, as amended;

Now therefore The Corporation of the City of Oshawa by its Council enacts as follows:

**Short Title**

1. The short title of this By-law is the "Trespass By-law".

**Definitions**

2. In this By-law,

"Appeal Fee" means the fee to commence an appeal in accordance with the General Fees and Charges By-law 13-2003, as amended;

"Authorized Person" means any of the following persons:

- (a) a security guard employed by or under contract with the City;
- (b) a Municipal Law Enforcement Officer appointed to enforce the By-laws of the City;
- (c) a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police;
- (d) Supervisor, Manager, Director of the City's Recreation and Culture Services and Operations Services;
- (e) a Senior Staff Person;
- (f) a Senior Executive Staff Person; and,
- (g) Chief Administrative Officer.

“City” means the Corporation of the City of Oshawa;

“City Employee” means all full-time, part-time, temporary, seasonal and staff hired on a contract basis for a defined period of time, of the City of Oshawa as well as, Students

“City Facility(ies)” means all physical property, buildings, facilities, lands, premises, goods and other assets owned, leased and/or maintained by the Corporation of the City of Oshawa;

“Council” means Oshawa Council as a whole;

“Hearings Officer” means each person from time to time appointed by Council pursuant to the Hearings Officer By-law 26-2008, as amended;

“Meeting Room” means that part of a City Facility in which the Council of the City of Oshawa or one of its Standing Committees is holding a meeting pursuant to the City’s Procedure By-law 111-2017, as amended;

“Person” means an individual, partnership, association, organization, firm or corporation;

“Prohibited Conduct” includes:

- (a) damage to or vandalism of a City Facility;
- (b) interference with the operation of a City Facility;
- (c) interference with others’ use of a City Facility;
- (d) contravention of a law of Canada, a law of the Province of Ontario or a municipal by-law;
- (e) contravention of a City of Oshawa policy governing the conduct of Persons entering City Facility;

“Senior Executive Staff Person” means the Director, Facilities Management Services, Corporate Security Manager, a member of the Corporate Leadership Team including the Chief Administrative Officer;

“Senior Staff Person” means each Director of a City Branch; and,

“Service Oshawa” means the City’s Customer Service Division and includes each person from time to time employed therein.

### **Trespass Notice**

- 3. (1) For the purposes of this By-law, a Trespass Notice means a notice prohibiting entry to one or more City Facility by a person or group of persons.

### **Oral or Written**

- (2) A Trespass Notice may be given orally or in writing.



## **Confirm Oral in Writing**

- (3) A Trespass Notice given orally and prohibiting entry to no more than one City Facility shall be documented in writing as soon as is practicable.

## **Factors in Giving Trespass Notice**

4. In determining whether to give or extend a Trespass Notice to a Person pursuant to this By-law, the locations where entry is prohibited, and the duration of the prohibition, consideration shall be given to the following factors:
  - (a) the feasibility and effectiveness of any warnings to the Person or graduated restrictions placed on the Person;
  - (b) any operational or City employee requirements or limitations;
  - (c) the severity of the harm or potential harm caused by the Person's Prohibited Conduct to City Employees, Council, Contracted Service Provided, Students or Volunteers, members of the public or City Facility;
  - (d) the Person's level of ability and circumstances;
  - (e) the history of the Person's conduct and interactions on City Facility;
  - (f) the likelihood of recurrence of the Prohibited Conduct by the Person; and
  - (g) the impact of restrictions or prohibitions on the Person.

## **Term of Trespass Notice**

5. 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 to one or more City Facility for not more than seven (7) days.
6. 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 to one or more City Facility for not more than one (1) year.
7. A Senior Executive 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 to one or more City Facility for not more than three (3) years.
8. The Chief Administrative Officer who has reason to believe that a Person has engaged in Prohibited Conduct may give to the Person a Trespass Notice that prohibits entry to one or more City Facility for not more than five (5) years.

## **Extension of Term of Trespass Notice**

9. Prior to the termination of a Trespass Notice given pursuant to sections 5 to 7, a Senior Executive Staff Person may extend the term of the Trespass Notice for not more than two (2) years by giving the Person notice of the extension if the Senior Executive Staff Person has reason to believe that the Person has during the term of the Trespass Notice under review:
  - (a) violated the Trespass Notice; or
  - (b) engaged in further or continued Prohibited Conduct.

## **Revocation**

10. An Authorized Person who has issued a Trespass Notice, or someone to whom they report directly or indirectly, may revoke the Trespass Notice and may impose such conditions respecting the revocation as the Authorized Person considers appropriate.

## **Appeal**

11. (1) The right of a Person to appeal against the Trespass Notice expires if it has not been exercised in the manner prescribed in Section 11(2) before 4:30 p.m. on the twenty-first (21<sup>st</sup>) day after the day on which the Trespass Notice was issued under Sections 6 to 8 or extended under Section 9, in which case:
  - (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.
- (2) A Person who has received a Trespass Notice in Sections 6 to 8 or extension of a Trespass Notice in Section 9 with a term of more than one month may appeal the Trespass Notice by giving written notice of the Appeal to the Clerk and paying any Appeal Fee within three weeks of receiving the Trespass Notice.
- (3) A Trespass Notice shall remain in effect during the appeal period from the date that the Person has appealed the notice up to and including the date of the hearing of the appeal with the Hearings Officer.

## **Manner of Hearing**

- (4) An appeal pursuant to subsection 11(1) shall be heard by a Hearings Officer in a manner appropriate to the circumstances of the Person and the Prohibited Conduct underlying the Trespass Notice as determined by the Hearings Officer.

## **Notice of Hearing**

- (5) The Hearings Officer shall provide notice of date, time and manner of the hearing of the appeal no fewer than seven (7) days prior to the hearing to the Person who received the Trespass Notice and to the Senior Staff Person, Senior Executive Staff Person or Chief Administrative Officer who gave the Trespass Notice under appeal.

## **Powers on Appeal**

- (6) On an appeal pursuant to subsection 11(1), subject to subsection 11(7), a Hearings Officer may:
  - (a) revoke the Trespass Notice;
  - (b) shorten the term of the Trespass Notice;
  - (c) remove prohibited locations from the Trespass Notice; or
  - (d) affirm the Trespass Notice.

## **Failure to Participate or Attend**

- (7) If a Person who appeals a Trespass Notice fails to participate in or attend the hearing of the appeal as notified pursuant to subsection 11(5) or fails to pay the Appeal Fee before the time scheduled for a hearing of the appeal pursuant to subsection 11(2):
  - (a) The Person shall be deemed to have abandoned the appeal;
  - (b) The Trespass Notice is deemed to be affirmed; and,
  - (c) The Trespass Notice shall not be subject to review including review by any Court.

## **Decision Final**

- (8) A decision of a Hearings Officer is final and not subject to review by any Court.

## **Meetings Exception**

12. A Trespass Notice is not effective to the extent that the Trespass Notice prevents a Person from entering or remaining in a Meeting Room provided the Person complies with the following conditions, including but not limited to:
  - (a) the Person notifies the City Clerk of their intention to attend the meeting no later than one (1) business day 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**

- 13. (1) A Senior Staff Person or Senior Executive Staff Person may give to a Person who has received a Trespass Notice an Invitation to Attend a City Facility which shall specify the following:
  - (a) the purpose for attending at the City Facility;
  - (b) the date and time of the approved attendance at the City Facility;
  - (c) the address of the City Facility where the Person is approved to attend; and
  - (d) instructions for who to contact when the Person arrives for the approved attendance at the City Facility; and
  - (e) that the Trespass Notice remains in effect except for the approved attendance in accordance with the Invitation to Attend.

### **Effect of Invitation to Attend**

- (2) 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 at the City Facility specified in the Invitation to Attend.

### **Request for Invitation to Attend**

- (3) If a Person who has received a Trespass Notice needs to enter City Facility to conduct business with the City and is prevented from doing so by the Trespass Notice, the Person may request an Invitation to Attend from the Authorized Person who gave the Person the Trespass Notice a minimum of (1) business day prior to the requested date of attending at the City Facility, which request shall include the following information:
  - (a) the purpose for attending at the City Facility;
  - (b) the reasons why attending at the City Facility is necessary; and
  - (c) the address of the City Facility where the Person wishes to attend.

### **Manner of Attendance**

- (4) The manner in which a Person, who has received a Trespass Notice and has requested or is extended an Invitation to Attend as per Section 13 of this By-law, is attending at a City Facility shall be determined by the Senior Staff Person, and which may include the option of electronic participation including but not limited to: telephone, video conferencing and computers with Internet access and conferencing software or programming.

## **Methods of Giving Notice**

14. (1) A notice given by the City pursuant to this By-law in writing may be given in any of the following ways:
- (a) personally;
  - (b) by fax to the recipient's last known fax number;
  - (c) by e-mail to the recipient's last known e-mail address; or
  - (d) by registered or regular mail or courier or hand delivery addressed to the recipient's last known address.

## **Deemed Effective**

- (2) Notice given in accordance with subsection (1) shall be deemed to be effective:
- (a) on the date it is personally given or delivered by courier or hand delivered;
  - (b) on the date on which the fax is sent;
  - (c) on the date the e-mail is sent; or
  - (d) on the fifth day after the date of mailing by registered or regular mail.

## **Conflict**

15. Nothing in the By-law limits the authority of any person to give a Trespass Notice granted by any other City of Oshawa By-law, whether or not the other By-law uses the words "Trespass Notice".

## **General**

16. Nothing in this By-law limits the City's ability to enforce its rights under the *Trespass to Property Act* by any legal means. Without limitation, the Director, Facilities Management 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.
17. It is Council's opinion that the delegations in this By-law to Authorized Persons, Senior Staff Persons, Senior Executive Staff Persons, the Chief Administrative Officer 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.

**Severability**

- 18. Should a court of competent jurisdiction declare any part of the whole of any provision of this by-law to be invalid or of no force and effect, the provision or part shall be deemed to have been severed from this by-law, and it is the intention of Council that the remainder of the by-law survive and be applied and enforced in accordance with its terms to the extent possible under law.

**Enactment & Transition**

- 19. This by-law shall come into full force and effect on the date of passage.
- 20. By-law 98-2013, as amended, is hereby repealed.
- 21. Any Trespass Notices issued under By-law 98-2013, as amended remain in full force and effect, shall be deemed to have been issued under this Trespass By-law, and shall expire in accordance with their original term. Trespass Notices issued under By-law 98-2013, as amended may be extended in accordance with the provisions of section 9 of this By-law, *mutatis mutandis*. For the purposes of any appeal of a Trespass Notice issued under By-law 98-2013, as amended the appeal process set out in this By-law shall apply.

By-law passed this [            ] day of [            ], 2021.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

~~CONSOLIDATED AS AMENDED BY BY LAWS 24-2015, 89-2020 and 13-2021~~



Oshawa®

By-law ~~98-2013~~ 2021  
of The  
Corporation of the City of Oshawa

Being a by-law to ~~establish~~ repeal By-law 98-2013, as amended, and replace it with a system for administering notices and other matters under the new Trespass ~~to Property Act.~~

~~NOW THEREFORE the Council~~ By-law, of The Corporation of the City of Oshawa ~~ENACTS AS FOLLOWS: (the “Trespass By-law”).~~

### Interpretation

~~1. In this By-law:~~

~~“Act” means~~ Whereas:

- ~~1. the City of Oshawa has the right as an owner and occupier of premises to restrict or prohibit entry to such premises, and the *Trespass to Property Act*, R.S.O. 1990, c. T.21; governs the enforcement of that right; and,~~
- ~~2. the Council of the City of Oshawa recognizes its responsibility to exercise its rights in accordance with the *Canadian Charter of Rights and Freedoms*; and,~~
- ~~3. the Council of the City of Oshawa desires to replace the former *Trespass By-law 98-2013*, as amended;~~

~~Now therefore The Corporation of the City of Oshawa by its Council enacts as follows:~~

### Short Title

- ~~1. The short title of this By-law is the “Trespass By-law”.~~

### Definitions

- ~~2. In this By-law,~~

“Appeal Fee” means the fee, ~~if any, from time to time established by~~ commence an appeal in accordance with the City’s General Fees and Charges By-law 13-2003, as amended, in relation to an appeal pursuant to section 8;

“Authorized Person” means ~~each of:~~ any of the following persons:

(a) a security guard employed by or under contract with the City;

~~(a) 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;~~

~~(b)~~ a Municipal Law Enforcement Officer appointed to enforce the By-laws of the City;

~~(b)(c)~~ a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police; ~~and~~

~~(d)~~ Supervisor, Manager, Director of the City’s Recreation and Culture Services and Operations Services;

~~(e)~~ (e) a Senior Staff Person;

~~(f)~~ a Municipal Law Enforcement Senior Executive Staff Person; and,

~~(g)~~ Chief Administrative Officer appointed to enforce the By-laws of the



~~(b) —“City. (89-2020) and;~~

~~(c) —the Corporate Security Manager. (13-2021)~~

~~1.2. —“By-law” means this by-law and any schedule to this by-law as they may from time to time be amended;~~

~~“City” means The~~ the Corporation of the City of Oshawa;

“City Employee” means all full-time, part-time, temporary, seasonal and staff hired on a contract basis for a defined period of time, of the City of Oshawa as well as, Students

~~“City Facility”(ies)” means any land~~ all physical property, buildings, facilities, lands, premises, goods and other assets owned ~~or,~~ leased by and/or maintained by the Corporation of the City and includes each building and other improvement thereon of Oshawa;

“Council” means ~~the City’s~~ Oshawa Council as a whole;

“Hearings Officer” means each ~~hearings officer~~ person from time to time appointed by Council pursuant to the ~~City’s~~ Hearings Officer By-law 26-2008, ~~as from time to time~~ amended;

“Meeting Room” means that part of a City Facility in which the Council of the City of Oshawa or one of its Standing Committees is holding a meeting pursuant to the Municipal Act, 2001, S.O. 2001, c. 25 ~~City’s Procedure By-law 111-2017,~~ as amended; ~~(24-2015)~~

“Person” ~~includes~~ means an individual, partnership, association, organization, firm or corporation;

“Prohibited Conduct” includes:

- (a) damage to or vandalism of a City Facility;
- (b) interference with the operation of a City Facility;
- (c) interference with others’ use of ~~the~~ a City Facility; ~~or~~
- (d) contravention of a law of Canada, a law of the Province of Ontario or a municipal ~~by-~~ law;
- (e) contravention of a City of Oshawa policy governing the conduct of Persons entering City Facility;

“Senior Executive Staff Person” means the City Director, Facilities Management Services, Corporate Security Manager, a member of the Corporate Leadership Team including the Chief Administrative Officer;

“Senior Staff Person” means each Commissioner Director of a City Branch; ~~and each Director of the City,~~

“Service Oshawa” means the City’s Customer Service Division and includes each person from time to time employed therein; ~~and~~ .

**“Trespass Notice”** ~~means a notice pursuant to section 3~~

~~4.3. (1) For the purposes of the Act that is authorized to be given pursuant to this By-law, a Trespass Notice means a notice prohibiting entry to one or more City Facility by a person or group of persons.~~

**Oral or Written**

(2) A Trespass Notice may be given orally or in writing.

### Confirm Oral in Writing

- (3) A Trespass Notice given orally and prohibiting entry to no more than one City Facility shall be documented in writing as soon as is practicable.

### Factors in Giving Trespass Notice

4. In determining whether to give or extend a Trespass Notice to a Person pursuant to this By-law, the locations where entry is prohibited, and the duration of the prohibition, consideration shall be given to the following factors:
- (a) the feasibility and effectiveness of any warnings to the Person or graduated restrictions placed on the Person;
  - (b) any operational or City employee requirements or limitations;
  - (c) the severity of the harm or potential harm caused by the Person's Prohibited Conduct to City Employees, Council, Contracted Service Provided, Students or Volunteers, members of the public or City Facility;
  - (d) the Person's level of ability and circumstances;
  - (e) the history of the Person's conduct and interactions on City Facility;
  - (f) the likelihood of recurrence of the Prohibited Conduct by the Person; and
  - (g) the impact of restrictions or prohibitions on the Person.

### Term of Trespass Notice

- ~~2.5.~~ 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 ~~onto one or to a more~~ City Facility for ~~a period not exceeding three (3) more than seven (7)~~ days.
- ~~2.~~ 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.
- ~~3.6.~~ 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 ~~onto one or to a more~~ City Facility for ~~a period not exceeding six (6) months~~ more than one (1) year.
- ~~3.~~ A Senior ~~Executive~~ Staff Person ~~may revoke or suspend~~ who has reason to believe that a Person has engaged in Prohibited Conduct may give to the Person 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:

~~4.7. 5A.1. The Person notifies the prohibits entry to one or more City Clerk of the Person's intention to attend the meeting no later Facility for not more than one (1) day prior to the scheduled commencement of the meeting; three (3) years.~~

~~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. (24-2015)~~

**~~Application to Extend~~**

~~8. At any time prior to the expiry of the term The Chief Administrative Officer who has reason to believe that a Person has engaged in Prohibited Conduct may give to the Person a Trespass Notice that prohibits entry to one or more City Facility for not more than five (5) years.~~

## Extension of Term of Trespass Notice

4. ~~Prior to the termination of a Trespass Notice as extended under section 3, given under section 4 or extended under subsection 7.3, a Senior given pursuant to sections 5 to 7, a Senior Executive 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.~~
5. ~~The following applies to the hearing of an application pursuant to section 6:~~
- 5.1. ~~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.~~
- 5.2. ~~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.~~
- 5.9. ~~The decision of a Hearings Officer is final and not subject to not more than two (2) years by giving the Person notice of the extension if the Senior Executive Staff Person has reason to believe that the Person has during the term of the Trespass Notice under review including review by any Court.:~~
- (a) ~~violated the Trespass Notice; or~~
- (b) ~~engaged in further or continued Prohibited Conduct.~~

## Revocation

10. An Authorized Person who has issued a Trespass Notice, or someone to whom they report directly or indirectly, may revoke the Trespass Notice and may impose such conditions respecting the revocation as the Authorized Person considers appropriate.

## **Appeal**

- 6.11. (1) ~~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 Section 11(2) before 4:30 p.m. on the twenty-first (21<sup>st</sup>) day after the day on which the Trespass Notice was issued under Sections 6 to 8 or extended under section 3 or given under section 4 (24-2015)Section 9, in which case:~~

- (a) ~~the~~The Person shall be deemed to have abandoned the appeal;
- (b) ~~the~~The Trespass Notice shall be deemed to be affirmed; and<sub>u</sub>

~~8.1. 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 (24 2015), 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.~~

~~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.

Subject to subsection 11.1,(2) A Person who has received a Trespass Notice in Sections 6 to 8 or extension of a Trespass Notice in Section 9 with a term of more than one month may appeal the Trespass Notice by giving written notice of the Appeal to the Clerk and paying any Appeal Fee within three weeks of receiving the Trespass Notice.

(3) A Trespass Notice shall remain in effect during the appeal period from the date that the Person has appealed the notice up to and including the date of the hearing of the appeal with the Hearings Officer shall not make any decision respecting the<sub>u</sub>

### Manner of Hearing

(4) An appeal unless thepursuant to subsection 11(1) shall be heard by a Hearings Officer has given each ofin a manner appropriate to the circumstances of the Person and the Prohibited Conduct underlying the Trespass Notice as determined by the Hearings Officer.

### Notice of Hearing

- (5) The Hearings Officer shall provide notice of date, time and manner of the hearing of the appeal no fewer than seven (7) days prior to the hearing to the Person who received the Trespass Notice and to the Senior Staff Person and the Person, Senior Executive Staff Person or Chief Administrative Officer who gave the Trespass Notice under appeal.

### Powers on Appeal

- (6) On an opportunity to be heard at the time and place scheduled for the hearing of the application appeal pursuant to subsection 11(1), subject to subsection 11(7), a Hearings Officer may:

~~11.2. Subject to section 8 and subsection 11.1, a Hearings Officer may~~

- (a) revoke the Trespass Notice;
- (b) shorten the term of the Trespass Notice; ~~or may~~
- (c) remove prohibited locations from the Trespass Notice; or
- ~~(c)~~(d) affirm the Trespass Notice.

### The Failure to Participate or Attend

- (7) If a Person who appeals a Trespass Notice fails to participate in or attend the hearing of the appeal as notified pursuant to subsection 11(5) or fails to pay the Appeal Fee before the time scheduled for a hearing of the appeal pursuant to subsection 11(2):
- (a) The Person shall be deemed to have abandoned the appeal;
  - (b) The Trespass Notice is deemed to be affirmed; and,
  - (c) The Trespass Notice shall not be subject to review including review by any Court.

### Decision Final

- (8) A decision of a Hearings Officer is final and not subject to review, including review by any Court.



## Notices

In addition to the means of giving a Trespass Notice pursuant to section 5 of the Act, a ~~Trespass~~Meetings Exception

12. A Trespass Notice is not effective to the extent that the Trespass Notice prevents a Person from entering or remaining in a Meeting Room provided the Person complies with the following conditions, including but not limited to:
- (a) the Person notifies the City Clerk of their intention to attend the meeting no later than one (1) business day 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

13. (1) A Senior Staff Person or Senior Executive Staff Person may give to a Person who has received a Trespass Notice an Invitation to Attend a City Facility which shall specify the following:
- (a) the purpose for attending at the City Facility;
  - (b) the date and time of the approved attendance at the City Facility;
  - (c) the address of the City Facility where the Person is approved to attend; and
  - (d) instructions for who to contact when the Person arrives for the approved attendance at the City Facility; and
  - (e) that the Trespass Notice remains in effect except for the approved attendance in accordance with the Invitation to Attend.

## Effect of Invitation to Attend

- (2) 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 at the City Facility specified in the Invitation to Attend.

## Request for Invitation to Attend

- (3) If a Person who has received a Trespass Notice needs to enter City Facility to conduct business with the City and is prevented from doing so by the Trespass Notice, the Person may request an Invitation to Attend from the Authorized

Person who gave the Person the Trespass Notice a minimum of (1) business day prior to the requested date of attending at the City Facility, which request shall include the following information:

- (a) the purpose for attending at the City Facility;
- (b) the reasons why attending at the City Facility is necessary; and
- (c) the address of the City Facility where the Person wishes to attend.

### **Manner of Attendance**

- (4) The manner in which a Person, who has received a Trespass Notice and has requested or is extended an Invitation to Attend as per Section 13 of this By-law, is attending at a City Facility shall be determined by the Senior Staff Person, and which may include the option of electronic participation including but not limited to: telephone, video conferencing and computers with Internet access and conferencing software or programming.

## Methods of Giving Notice

~~7.14. (1) A notice that is given by the City pursuant to this By-law in writing may be given in any of the following ways and is effective:~~

~~11.3. when a copy is delivered to the Person to whom it is addressed;~~

~~(a) on the third (3<sup>rd</sup>) day after a copy is sent by registered mail or by regular lettermail to the Person's personally;~~

~~12.2. by fax to the recipient's last known address;~~

~~(a)(b) upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission fax number; or~~

~~(b)(c) upon the sending of the notice or document or a copy thereof by e-mail transmission to the Person's recipient's last known e-mail address; or~~

~~(d) Any notice by registered or document respecting this By-law to be given regular mail or courier or hand delivery addressed to the City recipient's last known address.~~

## Deemed Effective

~~(2) Notice given in accordance with subsection (1) shall be in writing, shall be deemed to be effective:~~

~~(a) on the date it is personally given in or delivered by courier or hand delivered;~~

~~(b) on the date on which the fax is sent;~~

~~(c) on the date the e-mail is sent; or~~

~~(d) on the fifth day after the date of mailing by registered or regular mail.~~

## Conflict

~~12. Nothing in the By-law limits the authority of any of the following ways and is effective:~~

~~13.1. subject person to compliance with give a Trespass Notice, when a copy is delivered to Service granted by any other City of Oshawa during its regular business hours at its reception area in the City's Civic Administration Complex, 50 Centre Street South, Oshawa; or~~

~~8.15. 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 By-law, whether or not the other By-law uses the words "Trespass Notice at City of Oshawa, 50 Centre Street South, Oshawa, Ontario, L1H 3Z7;"~~

## **General**

~~9.16.~~ Nothing in this By-law limits the City's ability to enforce its rights under the Trespass to Property Act by ~~all~~any legal means. Without limitation, the Director, Facilities Management 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. ~~(13-2021)~~

~~10.17.~~ It is Council's opinion that the delegations in this By-law to Authorized Persons, Senior Staff Persons, Senior Executive Staff Persons, the Chief Administrative Officer 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.

~~11.1. The short title of this By law is the "Trespass By law".~~

## **Consequential Amendment**

~~13. 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".~~

## **Severability**

~~18. Should a court of competent jurisdiction declare any part of the whole of any provision of this by-law to be invalid or of no force and effect, the provision or part shall be deemed to have been severed from this by-law, and it is the intention of Council that the remainder of the by-law survive and be applied and enforced in accordance with its terms to the extent possible under law.~~

## **Enactment & Transition**

~~19. This by-law shall come into full force and effect on the date of passage.~~

~~20. By-law 98-2013, as amended, is hereby repealed.~~

~~21. Any Trespass Notices issued under By-law 98-2013, as amended remain in full force and effect, shall be deemed to have been issued under this Trespass By-law, and~~

shall expire in accordance with their original term. Trespass Notices issued under By-law 98-2013, as amended may be extended in accordance with the provisions of section 9 of this By-law, *mutatis mutandis*. For the purposes of any appeal of a Trespass Notice issued under By-law 98-2013, as amended the appeal process set out in this By-law shall apply.

By-law passed this ~~fifteenth~~[\_\_\_\_\_] day of ~~October, 2013~~[\_\_\_\_], 2021.

~~“Original by-laws signed by the \_\_\_\_\_~~  
\_\_\_\_\_  
~~\_\_\_\_\_ Mayor and \_\_\_\_\_ City Clerk”~~

|   |  |                      |                |
|---|--|----------------------|----------------|
| <b>Policy:</b> <i>Trespass Policy and Procedure</i> |  |                      |                |
| <b>Issued:</b>                                      | <b>Revised:</b>  | <b>Page:</b> 1 of 24 | <b>Number:</b> |
| <b>Related Policies</b>                             | <i>Respect Check: Code of Conduct for all Facilities</i><br><i>Respect in Workplace – Harassment and Violence Policy LR14.10</i> |                      |                |

## 1.0 Purpose/Background

The purpose of this Policy is to establish and communicate corporate standards for addressing Prohibited Conduct at City Facility as well as the issuance of Trespass Notices pursuant to the *Trespass to Property Act*, R.S.O. 1990, c. T21 and the City's Trespass By-law.

## 2.0 Policy Statement

The City of Oshawa is committed to making reasonable efforts to provide an inclusive, healthy, safe and respectful environment for everyone at its facilities. City Facility is accessed for a variety of purposes, including work, recreation and cultural activities, and for accessing municipal and other programs and services, along with further public participation in democratic purposes. The City recognizes that the majority of individuals use City Facility in a responsible manner. However, there are certain instances where individuals engage in inappropriate activities, which compromise the health, safety and well-being of others and their enjoyment and use of City Facility.

## 3.0 Scope/Application

This Policy applies to all Employees (including employees of the Oshawa Senior Community Centres), Council, Volunteers, Students, and/or Contracted Service Providers of the Corporation of the City of Oshawa.

## 4.0 Definitions

**Act** means the *Trespass to Property Act*, R.S.O. 1990, c. T.21.

**Authorized Person** means each of:

- (a) a security guard employed by or under contract with the City;
- (b) a Municipal Law Enforcement Officer appointed to enforce the By-laws of the City;  
and
- (c) a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police;
- (d) a Supervisor, Manager, Director of the City's Recreation and Culture Services and Operations Services;

- (e) a Senior Staff Person;
- (f) a Senior Executive Staff Person; and,
- (g) Chief Administrative Officer (C.A.O.).

**City** means the Corporation of the City of Oshawa.

**City Facility(ies)** means all physical property, buildings, facilities, lands, premises, goods and other assets owned, leased and/or maintained by the Corporation of the City of Oshawa.

**Contracted Service Provider** means an individual or business that undertakes a contract or agreement with the City in order to perform a service on a continuing basis (e.g. Security Guard Services, Marriage Officiants, etc.).

**Council** means Oshawa City Council as a whole.

**City Employee** means all full-time, part-time, temporary, seasonal and staff hired on a contract basis for a defined period of time, of the City of Oshawa as well as Students.

**Harassment or Harass** means engaging in a course of behaviour, comment or conduct, whether it occurs inside or outside the work environment, that is or ought reasonably to be known to be unwanted. It includes but is not limited to any behaviour, conduct or comment that is directed at or is offensive to another person:

- on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status, as well as any other grounds under the provisions of the Human Rights Code; or
- which is reasonably perceived by the recipient as an intention to bully, embarrass, intimidate or ridicule the recipient.

**Hearings Officer** means each person from time to time appointed by Council pursuant to the Hearings Officer By-law 26-2008, as amended.

**Meeting Room** means that part of a City Facility in which the Council of the City of Oshawa or one of its Standing Committees is holding a meeting pursuant to the City's Procedure By-law 111-2017, as amended.

**Person** means an individual, partnership, association, organization, firm or corporation.

**Personal Information** means information according to Section 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, Chapter M. 56*, wherein Personal Information is defined as "Recorded information about an identifiable individual," including:

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

- (c) any identifying number, symbol or other particular assigned to the individual;
- (d) the address, telephone number, fingerprints or blood type of the individual;
- (e) the personal opinions or views of the individual except if they related to another individual;
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the individual; and,
- (h) the individual's name if it appears with other Personal Information relating to the individual or where the disclosure of the name would reveal other Personal Information about the individual.

**Prohibited Conduct** means the broadly defined term in the City's Trespass By-law and also includes:

- (a) damage to or vandalism of a City Facility;
- (b) interference with the operation of a City Facility;
- (c) interference with others' use of a City Facility;
- (d) contravention of a law of Canada, a law of the Province of Ontario or a municipal by-law;
- (e) contravention of a City of Oshawa policy governing the conduct of Persons entering City Facility.

**Security Guard Services** means a contracted company or service provider who is authorized to maintain the security of City Facilities.

**Senior Executive Staff Person** means the Director, Facilities Management Services, Corporate Security Manager, a member of the Corporate Leadership Team including the Chief Administrative Officer.

**Senior Staff Person** means each Director of a City Branch.

**Student** means an individual at least 15 years of age and registered in an educational program at a high school, college or university level.

**Trespass Notice Bulletin** (Trespass Bulletin) means a bulletin disseminated to the appropriate staff following the issuance of a Trespass Notice, in order to inform staff of an active Trespass Notice and the related particulars (see Annex C).

**Trespass Notice** means a notice pursuant to the *Trespass to Property Act* that is authorized to be given pursuant to the Trespass By-law, prohibiting entry to one or more City Facility by a Person or group of Persons (see Annex A).

**Video Surveillance Equipment** means any video, physical or other mechanical, electronic, digital or wireless surveillance system or device that enables continuous or periodic video recording, observing or monitoring of Personal Information about



individuals in interior and exterior public areas. Video Surveillance Equipment also includes devices capable of capturing audio and thermal or infrared images, or any other component capable of capturing the image of an individual.

**Volunteer** means an individual who volunteer their services, from time to time, to assist in areas of the City.

**4.1 Examples of Prohibited Conduct**

Prohibited Conduct is broadly defined in the City’s Trespass By-law and 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 goad or incite violence in others;
- Theft of property;
- Possession of weapons;
- Vandalism to City Facility;
- Refusal to abide by City 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 City of Oshawa by-law or policy;
- Criminal behavior of any kind whatsoever.

**4.2 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;
- any operational or City Employee requirements or limitations;
- the severity of the harm or potential harm caused by the Person’s Prohibited Conduct to City Employees, Council, Contracted Service Provider, Students or Volunteers, members of the public or City Facility;
- the Person’s level of ability or circumstances;
- the history of the Person’s conduct and interactions on City Facility;
- the likelihood of recurrence of the Prohibited Conduct by the Person; and,
- the impact of restrictions or prohibitions on the Person.

### 4.3 Formats of Trespass Notices and Issuing Trespass Notices

There are seven (7) formats of Trespass Notices which Authorized Persons are authorized to issue. **Table 1** details the different formats of Trespass Notices, duration, the Authorized Person, and examples of Prohibited Conduct. Trespass Notices can be issued either to the Person, by fax, by personal delivery or courier, mail (regular or registered) or email.

**Table 1 Formats of Trespass Notices**

| <b>Format of Trespass Notice</b>                            | <b>Duration</b> | <b>Authorized Person</b>  | <b>Prohibited Conduct, includes but not limited to:</b>  |
|---|-----------------|---|--|
| Oral or Written (written would apply to multiple locations) | Up to 3 days    | <ul style="list-style-type: none"> <li>• Security Guard Services</li> <li>• Municipal Law Enforcement Officer</li> <li>• Police Officers</li> <li>• Supervisor, Manager, Director of the Recreation &amp; Culture Services and Operations Services</li> <li>• Senior Staff Person</li> <li>• Senior Executive Staff Person</li> <li>• C.A.O.</li> </ul> | 1 <sup>st</sup> occurrence of the following: <ul style="list-style-type: none"> <li>• Loitering</li> <li>• Causing a Disturbance:               <ul style="list-style-type: none"> <li>○ Noise disturbance</li> <li>○ Profane language</li> <li>○ Mischief</li> </ul> </li> <li>• Harassment:               <ul style="list-style-type: none"> <li>○ Unwanted communication, jokes, remarks, innuendoes, leering</li> </ul> </li> <li>• Drugs and Alcohol               <ul style="list-style-type: none"> <li>○ Under the influence</li> </ul> </li> <li>• Suspicious Activity</li> </ul> |

| <b>Format of Trespass Notice</b> | <b>Duration</b> | <b>Authorized Person</b>  | <b>Prohibited Conduct, includes but not limited to:</b>   |
|----------------------------------|-----------------|---|---|
| Written                          | 1 to 7 days     | <ul style="list-style-type: none"> <li>• Security Guard Services</li> <li>• Municipal Law Enforcement Officer</li> <li>• Police Officers</li> <li>• Supervisor, Manager, Director of the Recreation &amp; Culture Services and Operations Services</li> <li>• Senior Staff Person</li> <li>• Senior Executive Staff Person</li> <li>• C.A.O.</li> </ul> | <ul style="list-style-type: none"> <li>• Loitering (repeat)</li> <li>• Causing a Disturbance (repeat): <ul style="list-style-type: none"> <li>○ Noise disturbance</li> <li>○ Profane language</li> <li>○ Mischief</li> </ul> </li> <li>• Harassment (repeat): <ul style="list-style-type: none"> <li>○ Unwanted communication, jokes, remarks, innuendoes, leering</li> </ul> </li> <li>• Drugs and Alcohol <ul style="list-style-type: none"> <li>○ Under the influence (repeat)</li> <li>○ Consumption/ possession</li> </ul> </li> <li>• Suspicious Activity (repeat)</li> </ul>   |
| Written                          | Up to 1 year    | <ul style="list-style-type: none"> <li>• Senior Staff Person</li> <li>• Senior Executive Staff Person</li> <li>• C.A.O.</li> </ul>  | <ul style="list-style-type: none"> <li>• Loitering (repeat)</li> <li>• Causing a Disturbance (repeat): <ul style="list-style-type: none"> <li>○ Noise disturbance</li> <li>○ Profane language</li> <li>○ Mischief</li> </ul> </li> <li>• Harassment: <ul style="list-style-type: none"> <li>○ Unwanted communication (repeat), physical contact</li> <li>○ Persistent unwanted contact</li> <li>○ Verbal assault/ threats</li> <li>○ Aggressive behaviours</li> <li>○ Altercation</li> </ul> </li> <li>• Drugs and Alcohol <ul style="list-style-type: none"> <li>○ Under the influence (repeat)</li> <li>○ Consumption/ possession (repeat)</li> </ul> </li> <li>• Suspicious Activity – police contacted</li> <li>• Theft – personal and City Facility</li> </ul> |

| <b>Format of Trespass Notice</b> | <b>Duration</b> | <b>Authorized Person</b>  | <b>Prohibited Conduct, includes but not limited to:</b>  |
|----------------------------------|-----------------|---|--|
| Written                          | Up to 2 years   | <ul style="list-style-type: none"> <li>• Senior Executive Staff Person</li> <li>• C.A.O.</li> </ul> | Repeat offence of the following: <ul style="list-style-type: none"> <li>• Harassment:               <ul style="list-style-type: none"> <li>○ Unwanted communication, physical contact (repeat)</li> <li>○ Persistent unwanted contact (repeat)</li> <li>○ Persistent unwanted communication (repeat)</li> <li>○ Verbal assault/ threats (repeat)</li> <li>○ Aggressive behaviours (repeat)</li> <li>○ Physical assault</li> <li>○ Indecent exposure</li> </ul> </li> <li>• Drugs and Alcohol               <ul style="list-style-type: none"> <li>○ Consumption/ possession (repeat offence)</li> </ul> </li> <li>• Suspicious Activity – police contacted</li> <li>• Theft – personal and City Facility (repeat)</li> </ul> |
| Written                          | Up to 3 years   | <ul style="list-style-type: none"> <li>• Senior Executive Staff Person</li> <li>• C.A.O.</li> </ul> | Repeat offence of the following: <ul style="list-style-type: none"> <li>• Harassment:               <ul style="list-style-type: none"> <li>○ Physical assault (repeat)</li> <li>○ Indecent exposure (repeat)</li> </ul> </li> <li>• Drugs and Alcohol               <ul style="list-style-type: none"> <li>○ Consumption/ possession (repeat)</li> </ul> </li> <li>• Vandalism and theft of City Facility (repeat)</li> </ul>  |
| Written                          | Up to 5 years   | <ul style="list-style-type: none"> <li>• C.A.O.</li> </ul>  | <ul style="list-style-type: none"> <li>• Offences related to weapons</li> </ul>  |

## **5.0 Responsibilities**

### **a) All Employees, Contracted Services Providers, Students and Volunteers**

All Employees, Contracted Service Providers (other than Security Guard Services), Students and Volunteers are to report all cases of Prohibited Conduct to their direct Supervisor with full details outlined in this Policy.

### **b) Council**

Council are to report cases of Prohibited Conduct to the Corporate Security Manager.

### **c) Authorized Persons**

Authorized Persons are to report all cases of Prohibited Conduct as outlined in this Policy and to make sure that all Employees, Contracted Service Providers, Students and Volunteers are aware of and follow this Policy. Authorized Persons shall be responsible for the proper issuance of Trespass Notices and for ensuring that Corporate Security Services, the Corporate Security Manager and Director, Facilities Management Services are notified when a Trespass Notice is issued.

### **d) City Clerk Services**

The Supervisor, Records and Information Management, City Clerk Services, is responsible for the retention of Trespass Notices and Trespass Bulletins. City Clerk Services is also responsible for notifying the Corporate Security Manager of Meeting Exception requests from a Person who has been issued a Trespass Notice.

The City Clerk will also facilitate ‘Meeting Exception’ requests as outlined in the Trespass By-law and the Policy.

### **e) Managers and Direct Supervisors**

Managers and direct Supervisors shall ensure that this Policy is communicated to Employees, Contracted Service Providers, Students and Volunteers staff and that they all comply with this Policy. Managers and Supervisors must contact the Executive Director, Human Resource Services, if a report of workplace violence is received as per the City’s Respect in the Workplace – Harassment and Violence Policy. Employees, Contracted Service Providers, Students and Volunteers are to report all cases of Prohibited Conduct to their direct Supervisor.

### **f) Corporate Security Manager**

The Corporate Security Manager shall ensure that this Policy is communicated to Council. The Corporate Security Manager shall be responsible for the tracking of Trespass Notices, Trespass Notice changes, and meeting attendance exceptions. The Corporate Security Manager is also responsible for compiling and disseminating Trespass Bulletins, including the retrieval of images from Video Surveillance Equipment. Corporate Security Manager is also responsible for notifying Authorized Persons of any changes, revocations, suspensions, amendments and expirations related to Trespass Notices and Trespass Bulletins.

The Corporate Security Manager is responsible for ensuring the original Trespass Notice is received by City Clerk Services for records retention purposes as outlined in the Records Retention By-law and Schedule.

The Corporate Security Manager or delegated Facilities Management Services administrative staff will be responsible for the administration of the Hearings Officer process for appeals to Trespass Notices.

#### **g) Senior Staff Person and Senior Executive Staff Person**

Senior Staff Person and Senior Executive Staff Person shall be responsible for ensuring they issue Trespass Notices in accordance with this Policy and that the Corporate Security Manager communicates any changes or updates to Trespass Notices/Bulletins to the Authorized Person, including instances of Trespass Notice revocation and suspension.

### **5.1 Duty to Report**

If at any time Employee, Council, Contracted Service Provider, Students, Volunteer or City Facility patrons feel personally threatened, Durham Regional Police Service and Security Guard Services must be contacted immediately. It is **not** the expectation that Employees, Council, Contracted Service Provider, Students or Volunteers address situations of Prohibited Conduct if they believe that their personal safety will be compromised. Employees, Council, Contracted Service Provider, Students and Volunteers are **not** to engage in physical confrontations when encountering Prohibited Conduct (see Annex D).

Employees, Council, Contracted Service Provider, Students and Volunteers shall contact Durham Regional Police Services and Security Guard Services for incidents of Prohibited Conduct involving physical violence. Acts of workplace violence against Employees, Contracted Service Provider, Students and Volunteers are to be reported to their Supervisor in accordance with the City's Respect in the Workplace – Harassment and Violence Policy. Council should report acts of workplace violence to the Corporate Security Manager.

**Note:** A guideline on when to call 9-1-1 is appended as Annex E for reference purposes.

## **6.0 Legislative and Policy Overview**

### **6.1 Trespass to Property Act and Trespass By-law**

The City has the right as an owner and occupier of premises to restrict or prohibit entry to such premises and the *Trespass to Property Act*, R.S.O. 1990, c. T.21 governs the enforcement of that right.

Council approved a Trespass By-law establishing a system to administer notices and other matters under the *Trespass to Property Act*.

## **6.2 Occupiers' Liability Act and Occupational Health and Safety Act**

The City has a general legislated duty under the *Occupiers' Liability Act*, R.S.O. 1990, c 0.2, to take such care, as in all the circumstances is reasonable, for any persons entering on its premises, and the property brought on the premises are reasonably safe. The City has further duties under the *Occupational Health and Safety Act*, R.S.O. 1990, c 0.1, to address workplace violence and Harassment and to:

- make reasonable efforts to provide a safe, healthy working environment for its employees;
- ensure that all persons on the property are reasonably safe while on the premises; and,
- make reasonable efforts to provide for the safety of Council, Employees, Students, Volunteers, and the public in City operations and in public use of City Facilities.

## **6.3 Municipal Act, 2001, S.O. 2001, c.25**

The City also has the authority to enact by-laws respecting its public assets and the protection of persons and property pursuant to subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

## **6.4 Related Policies**

The City's Respect in the Workplace - Harassment and Violence Policy LR14.10 outlines that it is the Corporation's goal to provide a healthy and safe work environment that is free from discrimination, Harassment and violence of any kind.

The Respect Check: Code of Conduct Policy for all City Facilities aims to promote a positive, safe and supportive environment for all who visit any City Facility.

## **7.0 Procedure**

All Authorized Persons who have the authority to issue Trespass Notices, in accordance with this Policy, are required to consider and/or implement all possible alternative measures before issuing a Trespass Notice. A Trespass Notice may be given orally or in writing in accordance with the Trespass By-law.

When a City Employee, Council, Contracted Service Provider, Student or Volunteer observes an incident that has occurred on a City Facility, they shall report the incident to their direct Supervisor and Security Guard Services. The Authorized Person, where possible and if appropriate, first explains to the Person that their behaviour is unacceptable and ask that the Prohibited Conduct cease.

If the behaviour continues, the Authorized Person will ask the Person to leave the City Facility. If the Person refuses to leave when asked, the Authorized Person is to contact Security Guard Services (if not already in attendance) or Durham Regional Police Services.

## **7.1 Issuing Oral Trespass Notice**

Oral Trespass Notices are issued immediately by the Authorized Person working at a City Facility and should only be used for isolated incidents. Oral Trespass Notices remain in effect for up to 72 hours from the time of issuance depending on the severity of the Prohibited Conduct, prohibiting entry to only one City Facility. All oral Trespass Notices must be recorded in accordance with this Policy.

## **7.2 Issuing Written Trespass Notice**

Written notice is prepared and issued by the Authorized Person, following the incident. Where a mailing address is available for the Authorized Person, the written notice is also delivered to the Person via registered or regular mail and/or email. When an address or email information is not available, and the Person is no longer on the Facility, the written notice is prepared and issued by the Authorized Person the next time the Person is seen at the City Facility, unless the intended duration of the Trespass Notice has expired.

The following process is to be followed when issuing a Trespass Notice:

- i) Document the incident using the Incident Report – Corporate Security Form within 24 hours of the incident occurring and submit to Corporate Security (see Annex B);
- ii) Refer to Section 4.3 to determine the format of Trespass Notice and the Authorized Person;
- iii) The Authorized Person completes the Trespass Notice;
- iv) The Authorized Person issues the Trespass Notice to the Person;
- v) The Authorized Person saves a copy of the Notice in the designated network drive and sends email notification to the Corporate Security Manager;
- vi) The Corporate Security Manager or designate sends the original Trespass Notice to the Supervisor, Records Information Management (City Clerk Services) for retention purposes and sends a Notice Bulletin to the following:
  - Security Guard Services
  - Director, Facilities Management Services
  - Director, Municipal Law Enforcement and Licensing Services
  - City Clerk
  - Director, Recreation and Culture Services
  - Director, Operations Services
  - Executive Director, OSCC55+
  - Executive Director, Oshawa Public Libraries
  - Chief Executive Officer, Robert McLaughlin Gallery



vii) Authorized Persons will communicate the Trespass Notice Bulletin to appropriate staff and make the bulletin available for staff at the affected City Facility. It is important to note that the Trespass Notice Bulletin contains Personal Information and should not be left in plain view of the general public or be left in a manner susceptible to loss. Additionally, upon expiry, the Trespass Notice Bulletin shall be properly destroyed according to the City's Retention By-law and Schedule.

### **7.3 Requesting an Image for Trespass Notice Bulletins**

- In an effort to increase the enforceability of a Trespass Notice, where available, images of the person responsible for the Prohibited Conduct will be obtained by the Corporate Security Manager.
- Requests must be made in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. 31 (M.F.I.P.P.A.).
- The Corporate Security Manager will attempt to capture the image, confirm the image with the Authorized Person who issued the Trespass Notice, and then include the image in the Trespass Notice Bulletin.
- City Clerk Services will review the Personal Information and authorize the release of the Trespass Notice Bulletin.
- Trespass Notice Bulletins will include the following:
  - i) An image of the individual (when possible);
  - ii) Details of the Trespass Notice: name, date, time, reason, duration; and,
  - iii) Details on steps to take if an Employee identify the Person violating their Trespass Notice.

### **7.4 Record Trespass Notice**

Once a Trespass Notice has been issued orally or written, the following process must be followed:

- Document all Trespass Notice information within 24 hours of the incident;
- The Authorized Person enters required information in the tracking sheet located in the designated S:Drive Folder. In the case of Municipal Law Enforcement, Trespass Notices will be sent by the Officer to their Supervisor who will enter required information in the tracking sheet in the designated S:Drive Folder;
- The Authorized Person saves a copy of the Notice in the "Notices" folder in the designated S:Drive Folder.

### **7.5 Meeting Exception**

- A Person to which a Trespass Notice has been issued may attend a Meeting Room at a City Facility, provided the Person complies with the following conditions, including but not limited to, those listed in the By-law.
- When a Person, who has received a Trespass Notice, intends to attend a meeting at a City Facility as per the Trespass By-law, the Person must notify City Clerk

Services of their intention to attend the meeting no later than one (1) business day prior to the scheduled start of the meeting.

- City Clerk Services will notify the Corporate Security Manager of the details of the request. The Corporate Security Manager will coordinate any personal escort requirements and inform the Authorized Person, Senior Staff Person and Senior Executive Staff Person at the affected City Facility of the details related to the meeting exception.

### **7.5.1 Invitation to Attend**

A Senior Staff Person or Senior Executive Staff Person may give to a Person who has received a Trespass Notice an Invitation to Attend a City Facility, which shall specify the following:

- the purpose for attending at the City Facility;
- the date and time of the approved attendance at the City Facility;
- the address of the City Facility where the Person is approved to attend;
- instructions for who to contact when the Person arrives for the approved attendance at the City Facility; and,
- that the Trespass Notice remains in effect except for the approved attendance in accordance with the Invitation to Attend.

The Corporate Security Manager must be copied on all Invitation to Attend.

### **7.5.2 Request for Invitation to Attend**

If a Person who has received a Trespass Notice needs to enter a City Facility to conduct business with the City and is prevented from doing so by the Trespass Notice, the Person may Request for Invitation to Attend, from the Authorized Person who gave the Person the Trespass Notice, a minimum of one (1) business day prior to the requested date(s) of attending at the City Facility. The request shall include the following information:

- the purpose for attending at the City Facility;
- the reasons why attending at the City Facility is necessary; and,
- the address of the City Facility where the Person wishes to attend.

The Authorized Person will review the request and with a Senior Staff Person and Senior Executive Staff Person, in consultation with the Corporate Security Manager, make a determination on a case-by-case basis. Once the request has been granted, the Person must sign in at the front desk at the City Facility and be escorted by Security Guard Services for the duration of the visit.

### **7.5.3 Manner of Attendance**

The manner in which a Person, who has received a Trespass Notice and is attending at a City Facility will be determined by the Senior Staff Person, and which may include the

option of electronic participation including but not limited to: telephone, video conferencing and computers with Internet access and conferencing software or programming.

**7.6 Revoked, Suspended, Amended, Extended and Expired Trespass Notices**

- If the Senior Executive Staff Person has reason to believe that the Person has, during the term of the Trespass Notice under review, either violated the Trespass Notice or engaged in further or continued Prohibited Conduct, a Senior Executive Staff Person may extend the term of the Trespass Notice for a period not exceeding two (2) years.
- This notice may be provided by the Corporate Security Manager if the Senior Staff Person or the Senior Executive Staff Person notifies the Corporate Security Manager of their intention to extend the Trespass Notice. The Corporate Security Manager, once notified of the intention to extend the Trespass Notice, will issue the Person the extension to the Trespass Notice.
- An Authorized Person who has issued a Trespass Notice, or someone to whom they report directly or indirectly, may revoke the Trespass Notice and may impose such conditions respecting the revocation as the Authorized Person considers appropriate. The Authorized Person will shall notify the Corporate Security Manager of the revocation. The Corporate Security Manager will attempt to notify the Person affected of the revocation details.
- Once notified by the Corporate Security Manager of the revocation, suspension, amendment, or expiration of an active Trespass Notice, the Authorized Person will communicate the changes to appropriate staff and ensure that the Trespass Notice Bulletin has been removed and securely destroyed according to the Records Retention By-law and Schedule.
- The Corporate Security Manager will manage the tracking of Trespass Notices and Trespass Notice Bulletins and will notify the Authorized Person of the Trespass Bulletin when Trespass Notices are revoked, suspended, amended or expired.

**7.7 Appeals**

- When a Trespass Notice has been issued or extended beyond one (1) month, the Person to whom the Trespass Notice was given may appeal to the Hearings Officer by giving to the City written notice of the Person’s appeal and by paying the Appeal Fee as set out in the General Fees and Charges By-law. Trespass Notices remain in effect during the appeal period.
- Council may waive any provision or requirements.
- The right to appeal against the Trespass Notice expires if it has not been properly exercised before 4:30 p.m. on the twenty-first (21st) day after the day on which the Trespass Notice was extended or issued, at which time the Trespass Notice is affirmed.
- The Hearings Officer will provide notice of date, time and manner of the hearing of the appeal no fewer than seven (7) days prior to the hearing to the Person who

received the Trespass Notice and to the Senior Staff Person, Senior Executive Staff Person or C.A.O. who gave the Trespass Notice under appeal.

- A Hearings Officer may not make any decision respecting the application unless both the Senior Staff Person and/or Senior Executive Staff Person and the Person have an opportunity to be heard at the time and place of the hearing. If the Person who appeals the Trespass Notice fails to participate in or attend the hearing of the appeal or fails to pay the Appeal Fee, the Person will be deemed to have abandoned the appeal and the Trespass Notice affirmed.
- The Hearings Officer may revoke, shorten the term of, modify the City Facility it pertains to, change or affirm the Trespass Notice. The decision of a Hearings Officer is final and not subject to review.
- The Corporate Security Manager or Facilities Management Services administrative staff will manage Hearings Officer decisions and will notify Security Guard Services when a Trespass Notice is revoked, affirmed, modified or shortened by the Hearings Officer.

## **8.0 Maintaining Detailed Records**

Authorized Persons are responsible for maintaining detailed records of their interactions with Persons (emails, notes of telephone conversations and notes of in-person discussions) in order to justify any action being taken to restrict the Person's access to City Facility. Records must be retained in accordance with the City's Records Retention By-law and Schedule.

### **8.1 Retention of Trespass Notices and Bulletins**

- City Clerk Services is responsible for the retention of Trespass Notices and Trespass Notice Bulletins.
- In the case of Trespass Notices, the Authorized Person who issued the Trespass Notice must send the original to the Corporate Security Manager who will send to the Supervisor, Records Information Management (City Clerk Services) as soon as practicable.
- The Corporate Security Manager, the Director, Facilities Management Services and the Senior Staff Person and/or Senior Executive Staff Person of the affected City Facility may retain an electronic copy in a secured corporate drive for security purposes.
- In the case of Trespass Notice Bulletins, the Corporate Security Manager must send the original copy to the Supervisor, Records Information Management (City Clerk Services).
- The Authorized Person of the affected City Facility who have received a copy of the Trespass Notice Bulletin shall ensure that the Trespass Notice Bulletin has been removed and securely destroyed when it is no longer in effect.

## 9.0 Monitoring and Evaluation

This Policy is reviewed by the Corporate Security Manager or designate at least every three (3) years to ensure its effectiveness and compliance with legislation and current business processes or as required based on legislative changes.

The Director, Facilities Management Services is authorized to make minor or housekeeping amendments to this Policy, as required.

For further information regarding this Policy, contact Facility Management Services at 905-436-3311 or email.

## 10.0 References

[Durham Regional Police 9-1-1 Call Guidelines](#)

[Hearings Officer By-law 26-2008, as amended](#)

[Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. 31](#)

[Respect in the Workplace – Harassment and Violence Policy LR14.10](#)

[Trespass By-law](#)

[Trespass to Property Act, R.S.O. 1990, c. T21](#)

[Video Surveillance Policy](#)

## 11.0 Approved

| Authority | Date | Signature |
|-----------|------|-----------|
|           |      |           |

## ANNEX A – Trespass Notice



### Trespass Notice

- 1-3 Days
- 1-7 Days
- Up to 1 Year
- Up to 2 Years
- Up to 3 Years
- Up to 5 Years

This notice is circulated to Oshawa Employees and Contracted Services for the purposes of promoting public health and safety, and relies on section 32 of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56. Questions concerning the circulation of this notice should be directed to the City of Oshawa's Freedom of Information and Privacy Coordinator at 50 Centre Street South, Oshawa, Ontario, L1H 3Z7 or 905-436 3311.

Date Issued: \_\_\_\_\_  
(mm/dd/yyyy)

Notice to: \_\_\_\_\_  
(First and Last Name)

Address: \_\_\_\_\_  
(Address) (City) (Postal Code)

The individual, \_\_\_\_\_, is hereby prohibited from entering onto any part  
(First and Last Name)

of the lands, including the buildings and parking lots on such lands, municipally described as follows:

- All City facilities listed below
- Arts Resource Centre
- 45 Queen Street, Oshawa ON
- Children's Arena
- 155 Arena Street, Oshawa ON
- Howden Road Depot
- 235 Howden Road East, Oshawa ON
- City Hall
- 50 Centre Street South, Oshawa ON
- Civic Recreation Complex
- 99 Thornton Road South, Oshawa ON
- Columbus Community Centre
- 3266 Simcoe Street North, Oshawa ON
- Consolidated Operations Depot
- 199 Wentworth Street East, Oshawa ON
- Donevan Recreation Complex
- 171 Harmony Road South, Oshawa ON
- Fire Station 1
- 199 Adelaide Avenue West, Oshawa ON
- Fire Station 2
- 1111 Simcoe Street South, Oshawa ON
- Fire Station 3
- 50 Beatrice Street East, Oshawa ON
- Fire Station 4
- 50 Harmony Road North, Oshawa ON
- Fire Station 5
- 1550 Harmony Road North, Oshawa ON
- Fire Station 6
- 2339 Simcoe Street North, Oshawa ON
- Other, \_\_\_\_\_
- Harman Park Arena
- 829 Douglas Street, Oshawa ON
- Lakeview Park
- 55 Lakeview Park Avenue, Oshawa ON
- Delpark Centre
- 1661 Harmony Road North, Oshawa ON
- Memorial Park
- 110 Simcoe Street South, Oshawa ON
- South Oshawa Community Centre
- 1455 Cedar Street, Oshawa ON
- Northview Community Centre
- 150 Beatrice Street, Oshawa ON
- Oshawa Animal Services
- 919 Farewell Street South, Oshawa ON
- Oshawa Union Cemetery
- 760 King Street West, Oshawa ON
- Parking Garage 1
- 47 Bond Street West, Oshawa ON
- Parking Garage 2
- 110 King Street West, Oshawa ON
- Parking Garage 3
- 1 Mary Street North, Oshawa ON
- Parks Services
- 919 Farewell Street South, Oshawa ON
- Tribute Communities Centre
- 99 Athol Street East, Oshawa ON
- Oshawa Senior Community Centre
- 43 John Street, Oshawa ON
- All other City Facilities not specifically listed

\*City Facility(ies) means any land owned or leased by the City and includes each building and other improvement thereon.

**ANNEX A – Trespass Notice (cont'd)**

This Trespass Notice ("Notice") is given pursuant to the Trespass to Property Act, R.S.O., 1990, c. T.21 (the "Act") and Oshawa By-law 98-2013, as amended (the "By-law").

This Notice is effective immediately and remains in effect until \_\_\_\_\_.  
 (mm/dd/yyyy)

Failure to comply with this Notice constitutes an offence contrary to the Act.

Senior Staff Person's Name: \_\_\_\_\_  
 (Print First and Last Name)

Position and Department: \_\_\_\_\_  
 (Print Position Title and Department)

\_\_\_\_\_  
 (Senior Staff Person's Signature)  
 (Authorized by section 4 of Oshawa By-law 98-2013)

**Schedule A**

## ANNEX B – Incident Report

|   |   |                               |   |   |
|---|---|-------------------------------|---|---|
| <b>City of Oshawa</b>   |   | Incident Number               | <input type="text" value="28678"/>                  |   |
| <b>INCIDENT REPORTING SYSTEM</b>  |   | Entry Date                    | <input type="text" value="Monday, March 29, 2021"/> |   |
|   |   | Entry Time                    | <input type="text" value="15:05"/>                  |   |
| Occurrence Date   | <input type="text"/>  | Emergency Services Requested? | <input type="checkbox"/>                            |   |
| Occurrence Time   | <input type="text" value="0:00"/>   | Emergency Service Called      | <input type="text" value=""/>                       |   |
| Dispatch Time   | <input type="text"/>  | Police Report                 | <input type="text" value=""/>                       |   |
| Response Date   | <input type="text"/>  | Police Response Time:         | <input type="text" value=""/>                       |   |
| Response Time   | <input type="text"/>  |                               |   |   |
| Related Report  | <input type="text" value="0"/>  |                               |   |   |
| Attachments   | <input type="checkbox"/>  |                               |   |   |
| Site  | <input type="text" value="OSHAWA CITY HALL"/>   |                               |   |   |
| Incident Type   | <input type="text" value="Other"/>  |                               |   |   |
| Rating  | <input type="checkbox"/> Severe <input type="checkbox"/> High <input checked="" type="checkbox"/> Low |                               |   |   |
| Report To   | <input type="text"/>  | Complainant                   | <input type="text"/>                                |   |
| Report Writer   | <input type="text"/>  | Contact Number                | <input type="text"/>                                | Ext: <input type="text"/>                     |
| Details   | <input type="text"/>  |                               |   |   |
|   | TEST  |                               |   |   |
| <b>NOTE: Incident is to be reviewed and closed by supervisor or City of Oshawa Management ONLY!</b> |   | Reviewed by                   | Review Date   | <input type="button" value="Close Incident"/> |
|   |   | <input type="text"/>          | <input type="text"/>                                |   |



## ANNEX C – Trespass Notice Bulletin



Corporate Services Department

# Trespass Notice Bulletin

Please be advised that a Trespass Notice has been Issued to:

\_\_\_\_\_  
(First and Last Name)

The Notice is effective until:

\_\_\_\_\_  
(mm/dd/yyyy)

Insert Image

The Individual is prohibited from entering onto any part of the lands, including the buildings and parking lots on such lands, municipally described as follows:

- All City facilities listed below
- |  |   |
|--|---|
| <input type="checkbox"/> Arts Resource Centre<br>45 Queen Street, Oshawa ON                    | <input type="checkbox"/> Harman Park Arena<br>829 Douglas Street, Oshawa ON             |
| <input type="checkbox"/> Children's Arena<br>155 Arena Street, Oshawa ON                       | <input type="checkbox"/> Lakeview Park<br>55 Lakeview Park Avenue, Oshawa ON            |
| <input type="checkbox"/> Howden Road Depot<br>235 Howden Road East, Oshawa ON                  | <input type="checkbox"/> Delpark Centre<br>1661 Harmony Road North, Oshawa ON           |
| <input type="checkbox"/> City Hall<br>50 Centre Street South, Oshawa ON                        | <input type="checkbox"/> Memorial Park<br>110 Simcoe Street South, Oshawa ON            |
| <input type="checkbox"/> Civic Recreation Complex<br>99 Thomson Road South, Oshawa ON          | <input type="checkbox"/> South Oshawa Community Centre<br>1455 Cedar Street, Oshawa ON  |
| <input type="checkbox"/> Columbus Community Centre<br>3265 Simcoe Street North, Oshawa ON      | <input type="checkbox"/> Northview Community Centre<br>150 Beatrice Street, Oshawa ON   |
| <input type="checkbox"/> Consolidated Operations Depot<br>199 Wentworth Street East, Oshawa ON | <input type="checkbox"/> Oshawa Animal Services<br>919 Farewell Street South, Oshawa ON |
| <input type="checkbox"/> Donevan Recreation Complex<br>171 Harmony Road South, Oshawa ON       | <input type="checkbox"/> Oshawa Union Cemetery<br>760 King Street West, Oshawa ON       |
| <input type="checkbox"/> Fire Station 1<br>199 Adelaide Avenue West, Oshawa ON                 | <input type="checkbox"/> Parking Garage 1<br>47 Bond Street West, Oshawa ON             |
| <input type="checkbox"/> Fire Station 2<br>1111 Simcoe Street South, Oshawa ON                 | <input type="checkbox"/> Parking Garage 2<br>110 King Street West, Oshawa ON            |
| <input type="checkbox"/> Fire Station 3<br>50 Beatrice Street East, Oshawa ON                  | <input type="checkbox"/> Parking Garage 3<br>1 Mary Street North, Oshawa ON             |
| <input type="checkbox"/> Fire Station 4<br>50 Harmony Road North, Oshawa ON                    | <input type="checkbox"/> Parks Services<br>919 Farewell Street South, Oshawa ON         |
| <input type="checkbox"/> Fire Station 5<br>1550 Harmony Road North, Oshawa ON                  | <input type="checkbox"/> Tribute Communities Centre<br>99 Athol Street East, Oshawa ON  |
| <input type="checkbox"/> Fire Station 6<br>2339 Simcoe Street North, Oshawa ON                 | <input type="checkbox"/> Oshawa Senior Community Centre<br>43 John Street, Oshawa ON    |
| <input type="checkbox"/> Other, _____  | <input type="checkbox"/> All other City Facilities not specifically listed              |

\*City Facility(ies) means any land owned or leased by the City and includes each building and other improvement thereon.

If you see this individual please advise security guard services (ext. 2338) immediately. Do not approach this individual.

Regards,

Security

## **Annex D – Addressing Prohibited Conduct**

- City Employees, Council, Contracted Service Providers, Students and Volunteers are authorized to act in accordance with this Policy if Prohibited Conduct is observed or a complaint is received.
- When addressing cases of Prohibited Conduct, it is recommended that Authorized Person be accompanied by Security Guard Services, where the situation permits.
- Upon witnessing or suspecting that Prohibited Conduct has occurred or is occurring, the following procedure will be enacted in the order as detailed below, provided that it is safe to do so:

### **1. Preliminary Measures:**

- Get a good description of the Person (e.g. physical characteristics, clothing, etc.)
- Note the time and location

### **2. If addressing physical violence or other unsafe situations:**

- Immediately contact police and provide the following details:
  - **Where** are you - tell the call taker exactly where you are standing, especially important when calling from a cellphone.
  - **What** are you seeing - give as much detailed information as possible.
  - **When** did this take place - if the incident is in progress, let the call taker know immediately.
  - **Who** are you - give your full name, address and contact information. Inform the call taker that you are an employee of the City of Oshawa.
  - **Weapons** - do you see one or is it implied that there may be one?
  - **Witness** – did you or someone else witness the incident?
- Advise Security Guard Services (ext. 5687) that you have contacted police and provide the same information above.
  - If **other** City Employee, Council, Contracted Service Provider, Student or Volunteer are available and if it is safe to do so, assign:
    - One Employee, Council, Contracted Service Provider, Student or Volunteer to meet and direct police/security at the main entrance of City Facility.
    - One Employee or Council to assist in addressing Prohibited Conduct.

### **3. Addressing Prohibited Conduct While Preventing Confrontation:**

- Introduce yourself (name, position and authority to act)
- Be courteous, calm and assured.
- Ask the Person to identify themselves, ask for ID when/if possible
- Without jeopardizing your safety or others, inform the Person that their behaviour constitutes Prohibited Conduct and that they should stop the activity immediately. Notify the Person that there are cameras on the premises and everything is being recorded, point out signage of Prohibited Conduct. If police have been contacted, advise the individual that police are on their way.
  - Inform the Person of all appropriate by-laws and that they must immediately leave the City Facility.
  - If Police have not already been contacted and the Person fails to cooperate, inform the Person again of all appropriate by-laws and that they must immediately leave the City Facility.
  - City Employee, Council, Contracted Service Provider, Student or Volunteer shall immediately contact Durham Regional Police.
  - Advise Supervisor and Corporate Security Manager immediately.

### **4. Options for Addressing Prohibited Conduct:**

- Authorized Person is permitted to address Prohibited Conduct using a variety of options which include:
  - Requesting the Person to stop their Prohibited Conduct;
  - Requesting that the Person leave the City Facility either through voluntary compliance or with the assistance of Police or Security;
  - Issuing Trespass Notices (Note: only Authorized Person are authorized to issue Trespass Notices. Refer to Section 4 of the Policy); and,
- Addressing Prohibited Conduct requires a “case-by-case” approach and some options are appropriate for certain incidents while others are not.

## **Annex E – Call 911**

### **Calling 911**

Durham Regional Police Service is the Primary Public Safety Answering Point for the Region of Durham. The Communications/911 Unit is responsible for the initial answering of all 911 emergency calls. Call takers at the centre answer 911 calls and direct them to the appropriate police, fire, or ambulance.

In the case of Durham Regional Police calls for service, the call taker will continue on with the call and obtain all information as required by police. 911 calls for fire or ambulance are immediately transferred to the required emergency service.

### **When to Call 911**

Call 911 in life-threatening situations or when there is immediate danger to life or property. For example:

1. You or another person is injured and in need of medical attention (i.e. chest pains, bleeding, breathing problems).
2. A fire or smoke has been detected, requiring the Fire Department.
3. A crime has just occurred, resulting in injury, potential injury or life-threatening situation, including domestic violence.
4. A robbery or theft is being committed.
5. The sound of breaking glass is heard.
6. Someone is screaming for help.
7. A loud explosion or gunshot is heard.
8. A motor vehicle accident has occurred.
9. Someone asks you to call 911 for an unknown situation.

**Do not call 911 for these types of incidents. Call the non-emergency number 905-579-1520 or 1-888-579-1520 for:**

1. Theft of property that occurred days or weeks ago.
2. Vandalism, egging houses, damage to vehicles, days or weeks ago
3. Any historic assaults (i.e. assaults that occurred weeks or years ago)
4. General information about policing (i.e. to speak to an officer, fireman, or to ask for directions or information).
5. Complaints about a police officer.

**Do not call Durham Regional Police for these types of incidents:**

1. Street parking complaints.
2. Noise complaints (i.e. barking dogs, loud stereos, construction noise)
3. Lost, stolen or found pets or property.

**Municipal Benchmarking**

| <b>Municipality</b> | <b>Duration</b>  | <b>Authorized staff</b>  |
|---------------------|--|--|
| Haldimand County    | <ul style="list-style-type: none"> <li>• 1<sup>st</sup> Occurrence: immediate ejection and up to 1 year (depending on the severity of the inappropriate behaviour, non violent in nature)</li> <li>• 2<sup>nd</sup> Occurrence: 1 month suspension and up to 3 years (depending on the severity of the inappropriate behaviour with the potential to incite violence)</li> <li>• 3<sup>rd</sup> Occurrence: 3 month suspension and up to 5 years (depending on the severity of the inappropriate behaviour with physical violence)</li> <li>• 4<sup>th</sup> occurrence: 6 month suspension (only applies to non-violent behaviour)</li> </ul> | <ul style="list-style-type: none"> <li>• Staff</li> <li>• Final authorization from the General Manager of Planning and Economic Development</li> </ul>   |
| Hamilton            | <ul style="list-style-type: none"> <li>• Suspension: 7 days</li> <li>• Ban: not more than 2 years</li> <li>• Extension of Suspension: not more than 2 years</li> <li>• Longer/ Extension of Ban: not more than 5 years</li> </ul>  | <ul style="list-style-type: none"> <li>• 7 days: Authorized person (security guard, municipal law enforcement officer, police officer, senior staff person (Director))</li> <li>• Ban: senior staff person (Director)</li> <li>• Extension of Suspension: senior staff person (Director)</li> <li>• Longer/ Extension of Ban: senior executive (General Manager responsible for facility)</li> </ul> |
| Mississauga         | <ul style="list-style-type: none"> <li>• Option 1 (for minor/ and for first incident): 1 day to 1 month</li> <li>• Option 2 (for repeat minor disturbances or more serious incidents): 1 month to 3 months</li> <li>• Option 3 (for major disturbances, first time incidents): 3 to 6 months</li> <li>• Option 4 (for major disturbances, repeat incidents): 6 to 12 months</li> <li>• Option 5 (for any incidents involving weapons or actions that cause grievous risks to personal safety of staff/patrons): 1 year to 10 years</li> </ul>  | <ul style="list-style-type: none"> <li>• Corporate Security</li> </ul>   |

| Municipality | Duration   | Authorized staff   |
|--------------|--|--|
| Ottawa       | <ul style="list-style-type: none"> <li>• Verbal warning: 72 hours depending on type of behaviour and frequency (e.g. loitering, causing a disturbance, harassment, under the influence of drugs/alcohol, suspicious activity)</li> <li>• Written notice: up to 1 year depending on severity and frequency of behaviour (e.g. repeated loitering and causing a disturbance, violence/harassment, consumption and possession of drugs/alcohol, suspicious activity and police contacted)</li> <li>• Written notice: up to 3 years depending on severity and frequency of behaviour (e.g. physical assaults, sale/trafficking drugs)</li> <li>• Written notice: up to 5 years (authority of City Manager only)</li> </ul> | <ul style="list-style-type: none"> <li>• 72 hours: Security staff</li> <li>• Up to 1 year: Delegated Facility Managers, Delegated Department Managers, Security guards</li> <li>• Up to 3 years: Program Manager, Corporate Security, Division Manager, Branch Operations, Director, Manager</li> <li>• Up to 5 years: City Manager</li> </ul> |
| Sudbury      | <ul style="list-style-type: none"> <li>• Causing a disturbance, disregard for rules, vulgar language, shouting : 1<sup>st</sup> occurrence - 72 hours; 2<sup>nd</sup> occurrence – minimum 1 month; 3<sup>rd</sup> occurrence – minimum 6 months</li> <li>• Direct or indirect threat towards staff/ aggressive, intimidating or harassing behaviour/ vandalism: 1<sup>st</sup> occurrence – minimum 6 months; 2<sup>nd</sup> occurrence – minimum 1 year; 3<sup>rd</sup> occurrence – minimum 2 years</li> <li>• Assault/ weapons/ theft: 1<sup>st</sup> occurrence – minimum 2 years; 2<sup>nd</sup> occurrence minimum 3 years; 3<sup>rd</sup> occurrence – minimum 3 years</li> </ul>                              | <ul style="list-style-type: none"> <li>• 72 hours: the most senior employee working in the facility at the time of the incident, municipal law enforcement, corporate security</li> <li>• Over 72 hours: management staff</li> </ul>   |