

THE CORPORATION OF THE
TOWNSHIP OF CHAPLEAU

BY-LAW 2021-45

Being a By-Law to administer notices and other matters
under the Trespass to Property Act

WHEREAS the Township of Chapleau 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;

WHEREAS the Council of the Township of Chapleau recognizes its responsibility to exercise its rights in accordance with the Canadian Charter of Rights and Freedoms.

NOW THEREFORE the Council of the Township of Chapleau enacts as follows:

1. Short Title:

- a) The short title of this By-law is the Trespass By-law.

2. Definitions

“appeal fee” means the fee to commence an appeal pursuant to section 10 as set out in the User Fees and Charges By-law in effect from time to time;

“authorized person” means any of the following persons:

- (a) a security guard employed by or under contract with the Township;
- (b) such persons employed by the Township who, as a matter of their regular duties or due to circumstances, are responsible for and have control over the condition of any Township premises or the activities there carried on, or control over persons allowed to enter the Township premises;
- (c) a police officer; and
- (d) a senior staff person.

“Township premises” means lands, structures, improvements, or any of them that are owned or occupied by the Township of Chapleau;

“meeting room” means that part of a Township premises in which the Council of the Township of Chapleau or one of its Standing Committees is holding a meeting;

“prohibited conduct” includes:

- (a) contravention of a law of Canada or Ontario or a municipal by-law;
- (b) damage to or vandalism of a Township premises;
- (c) interference with the operation of a Township premises;
- (d) interference with others’ use of a Township premises;
- (e) contravention of a Township of Chapleau policy governing the conduct of persons entering Township premises including the RZone Policy;

“senior executive person” means any of the following persons employed by the Township of Chapleau:

- (a) the Chief Administrative Officer or Acting/Interim Chief Administrative Officer;

“senior staff person” means any of the following persons employed by the Township of Chapleau:

- (a) a Director or Acting Director responsible for the facility or program area affected by the prohibited conduct.

3. Trespass Notice

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

- (2) Oral or Written

A Trespass Notice may be given orally or in writing.

(3) Confirm Oral in Writing

A Trespass Notice given orally and prohibiting entry to one or more Township premises for longer than seven days shall be confirmed in writing as soon as is practicable, but the failure to do so does not make the oral notice ineffective.

4. Factors in Giving Trespass Notice

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 staff requirements or limitations;
- c) the severity of the harm or potential harm caused by the person's prohibited conduct to staff, members of the public or property;
- d) the person's level of ability and circumstances;
- e) the history of the person's conduct and interactions on Township premises;
- f) the likelihood of recurrence of the prohibited conduct by the person;
- g) the impact of restrictions or prohibitions on the person; and
- h) whether and to what extent the person who engaged in the prohibited misconduct was exercising her/his right to participate in the democratic process.

5. Short Term Notice

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 Township premises for not more than seven days.

6. Longer Term Notice

- (1) A senior executive 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 Township premises for not more than one year.

Extension of Notice

- (2) A senior executive person may extend the term of a Trespass Notice given pursuant to section 5 to a term of not more than one year by giving to the person notice of the extension.
- (3) Upon request by the person who has received a Trespass Notice or an extension of a longer term Trespass Notice, the senior executive person issuing the notice shall provide written reasons for the notice and such reasons will address the relevant factors in section 4.

7. Longer Ban from Township Premises

- (1) A senior executive person who has reason to believe that a person has engaged in prohibited conduct of a serious or continuing nature may give to the person a Trespass Notice that prohibits entry to one or more Township premises for not more than five years. However, before issuing such a notice, the senior executive person shall obtain prior approval to issue such notice from Council.

Extension of Ban

- (2) A senior executive person may seek approval from Council to extend the term of a Trespass Notice given or extended pursuant to sections 5 or 6 to a term of not more than five years by giving to the person notice of the extension.

- (3) Upon request by the person who has received a Trespass Notice or an extension of a longer term Trespass Notice, the senior executive person issuing the notice shall provide written reasons for the notice and such reasons will address the relevant factors in section 4.

8. Review and Extension

- (1) Prior to the termination of a Trespass Notice given or extended pursuant to section 6 or this section, a senior executive person may extend the term of the Trespass Notice for not more than two more years by giving the person notice of the extension if the senior executive person has reason to believe that the person has during term of the Trespass Notice under review:

- (a) violated the Trespass Notice; or
- (b) engaged in further or continued prohibited conduct.

(2) Notice of Termination

If a Trespass Notice is given without a termination date and a senior executive person determines not to extend a Trespass notice pursuant to subsection (1), the senior executive person shall promptly advise the person that the Trespass Notice has been terminated.

9. Revocation

A person who has given 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 person considers appropriate.

10. Appeal

- (1) A person who has received a Trespass Notice or extension of a Trespass notice 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.

(2) Manner of Hearing

An appeal pursuant to subsection (1) shall be heard by an Appeal Officer in a manner appropriate to the circumstances of the person and the prohibited conduct underlying the Trespass Notice as determined by the Appeal Officer.

(3) Notice of Hearing

The Appeal Officer shall provide notice of date, time and manner of the hearing of the appeal no fewer than seven days prior to the hearing to the person who received the Trespass Notice and to the senior staff person who gave the Trespass Notice under appeal.

(4) Powers on Appeal

On an appeal pursuant to subsection (1), subject to subsection (5), an Appeal 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.

5. Failure to Participate or Attend

If a person who appeals a Trespass Notice fails to participate in or attend the hearing of the appeal as notified pursuant to subsection (3), the Trespass Notice is deemed to be affirmed.

6. Decision Final

A decision of an Appeal Officer is final and not subject to review by Council or the Appellant.

7. Appeal Officer

For the purposes of this section, subject to subsection (8), an Appeal Officer shall mean any one of the following persons:

- (a) The Township's legal counsel;
- (b) Any other person appointed to this role by Council.

8. Involvement in Determining Terms

Despite subsection (7), no person who was involved in the determination of the terms of the Trespass Notice under appeal shall be the Appeal Officer who hears the appeal.

9. Meetings Exception

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 the person complies with the following conditions:

- (a) the person notifies the Township Clerk of their intention to attend the meeting no later than 24 hours prior to the scheduled start of the meeting;
- (b) the person enters the meeting room no earlier than 15 minutes prior to the scheduled start of the meeting;
- (c) the person remains in the meeting room no longer than 15 minutes after the meeting is adjourned; and
- (d) the person complies with any directions given by the Chair of the meeting respecting conduct at the meeting.

10. Invitation to Attend

A senior staff person may give to a person who has received a Trespass Notice an Invitation to Attend a Township premises which shall specify the following:

- (a) the purpose for attending at the Township premises;
- (b) the date and time of the approved attendance at the Township premises;
- (c) the address of the Township premises where the person is approved to attend;
- (d) instructions for who to contact when the person arrives for the approved attendance at the Township premises; and
- (e) that the Trespass Notice remains in effect except for the approved attendance in accordance with the Invitation to Attend.

11. Effect of Invitation to Attend

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 Township premises specified in the Invitation to Attend.

12. Request for Invitation to Attend

If a person who has received a Trespass Notice needs to enter Township premises to conduct business with the Township and is prevented from doing so by the Trespass Notice, the person may request an Invitation to Attend from the senior staff person who gave the person the Trespass Notice (or a senior executive person, if that senior staff person is not available), which request shall include the following information:

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

13. Methods of Giving Notice

A notice given by the Township pursuant to this By-law in writing may be given in any of the following ways:

- (a) personally;
- (b) by e-mail to the recipient's last known e-mail address; or
- (c) by registered or regular mail or courier or hand delivery addressed to the recipient's last known address.

14. Deemed Effective

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 the e-mail is sent; or
on the fifth day after the date of mailing by registered or regular mail.

15. Conflict

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

16. General

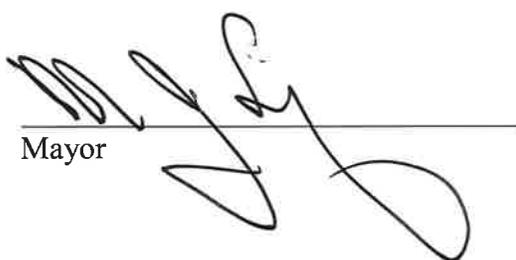
Nothing in this By-law limits the Township's ability to enforce its rights under the Trespass to Property Act any legal means.

17. Severability

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.

18. That this By-law shall come into force and take effect on the 23rd day of August, 2021.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 23rd day of August, 2021.



Mayor



Interim CAO