

## THE REGIONAL MUNICIPALITY OF NIAGARA

## BY-LAW NO. &lt;&gt;

A BY-LAW TO ESTABLISH A SYSTEM FOR  
ADMINISTERING NOTICES AND OTHER MATTERS  
UNDER THE TRESPASS TO PROPERTY ACT, R.S.O.  
1990, C. T.21

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WHEREAS The Regional Municipality of Niagara (“Niagara Region”) has the right as owner and occupier of premises to restrict or prohibit entry and limit permitted activities on such premises;

WHEREAS Niagara Region is committed to ensuring a safe and respectful environment for everyone;

WHEREAS Niagara Region has a general duty under the Occupiers’ Liability Act to take such care as in all the circumstances is reasonable to see that persons entering on its premises, and the property brought on the premises, are reasonably safe; and, Niagara Region has further duties under the Occupational Health and Safety Act and the Criminal Code of Canada to address workplace violence and harassment;

WHEREAS Niagara Region respects the rights of all individuals under the Canadian Charter of Rights and Freedoms and acknowledges its responsibility to exercise its authority in a manner that does not violate those rights; and

WHEREAS the Council of Niagara Region intends to establish a system for administering notices of trespass and related matters.

NOW THEREFORE the Council of Niagara Region enacts as follows:

**PART 1: DEFINITIONS**

1.1 In this By-law:

- (a) “**Act**” means the Trespass to Property Act, R.S.O. 1990, c. T.21;
- (b) “**Appeal Fee**” means the fee, if any, from time to time established by the Niagara Region Fees and Charges By-Law, in relation to an appeal under Part 4 of this by-law;

- (c) **“Appeal Officer”** means the Chief Administrative Officer (“CAO”) who is authorized to hear an appeal under this by-law, or the Deputy CAO or Commissioner assigned to hear the appeal by the CAO in accordance with Part 4 of this by-law;
- (d) **“Authorization Letter”** means a letter or other written notification authorizing a municipal, provincial, or other police service with jurisdiction over Regional premises to enforce the provisions of a Trespass Notice or the Trespass to Property Act, R.S.O. 1990, c. T.21 on Regional premises;
- (e) **“Authorized Person”** means each of:
  - i. security personnel employed by or under contract with Niagara Region;
  - ii. such persons employed by Niagara Region who, as a matter of their regular duties or due to circumstances, are responsible for and have control over the condition of any Regional premises or the activities there carried on, or control over persons allowed to enter the Regional premises, including, without limitation, the Director responsible for the Regional department, premises, service or program area affected by the prohibited conduct, or the Director of another Regional department assigned to investigate and/or make any decisions regarding the issuance of a Trespass Notice by a senior staff person;
  - iii. a municipal law enforcement officer; and
  - iv. a police officer;
- (f) **“By-Law”** means this by-law and any schedule to this by-law;
- (g) **“Niagara Region”** or **“the Region”** means The Regional Municipality of Niagara;
- (h) **“Regional Premises”** means any land, building, premises, facilities or infrastructure owned, occupied or leased by the Region and includes each building, structure and other improvement thereon;
- (i) **“Council”** means the Council of Niagara Region;
- (j) **“Meeting Room”** means that part of a Regional premises in which Council or one of the Committees, as defined in the Region’s Procedural By-law, is holding a meeting pursuant to the Municipal Act, 2001, S.O. 2001, c. 25, as amended;

- (k) **“Person”** includes an individual, partnership, association, firm or corporation;
- (l) **“Prohibited Conduct”** means:
- i. damage to or vandalism of a Regional premises or any property thereon;
  - ii. unreasonable interference with the operation of Regional premises;
  - iii. unreasonable interference with others’ use of Regional premises;
  - iv. contravention of a law of Canada, a law of the Province of Ontario or a municipal by-law on Regional premises; or
  - v. contravention of a Regional policy or signage governing the conduct of persons on Regional premises or in regard to Regional services, programs or events;
- (m) **“Senior Staff Person”** means the Commissioner responsible for the Regional department, premises, service or program area affected by the prohibited conduct, or the Commissioner of another Regional department assigned to investigate and/or make any decisions regarding the issuance of a Trespass Notice by an authorized person or senior staff person.
- (n) **“Trespass Notice”** means a notice, given orally or in writing, prohibiting entry to one or more Regional premises by a person or a group of persons.

## **PART 2: FACTORS IN GIVING TRESPASS NOTICE**

2.1 In determining whether to give, modify, extend, suspend or revoke a Trespass Notice given to a person pursuant to any part of this by-law, or in conducting an appeal under Part 4 of this by-law, consideration shall be given to the following factors:

- (o) any operational or staff requirements or limitations;
- (p) the severity of the harm or potential harm caused by the person’s prohibited conduct to staff, members of the public, or property;
- (q) the person’s level of ability and circumstances, if known;
- (r) the history of the person’s conduct and interactions on Regional premises;
- (s) the likelihood of recurrence of the prohibited conduct by the person;

- (t) the person's conduct during the term of any Trespass Notice issued to the person pursuant to this by-law or during the term of any restrictions imposed on the person pursuant to a Regional policy or procedure;
- (u) the impact of restrictions or prohibitions on the person; and
- (v) any other factor relevant to a consideration of the issues.

### **PART 3: TRESPASS NOTICE**

- 3.1 Any 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 one or more Regional premises for a period **not exceeding seven (7) days**.
- 3.2 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 one or more Regional premises for a period **not exceeding two (2) years**.
- 3.3 The Deputy 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 on or to one or more Regional premises for a period **not exceeding five (5) years**.
- 3.4 A Trespass Notice given orally and prohibiting entry to one or more Regional premises for longer than seven (7) days shall be confirmed in writing with the following information as soon as is practicable, but the failure to do so does not make the oral notice ineffective:
  - (a) a copy of the Trespass Notice;
  - (b) a summary of the matter which has led to the issuance of the Trespass Notice;
  - (c) the rationale for the Trespass Notice; and,
  - (d) information regarding the person's right to appeal the Trespass Notice in accordance with this by-law, if applicable.
- 3.5 Prior to the expiry of any Trespass Notice or any extension of a Trespass Notice given pursuant to this by-law, a senior staff person or the Deputy CAO may extend the term of a Trespass Notice for a further period not exceeding two (2) years by giving to the person notice of the extension, where:
  - (a) the senior staff person or Deputy CAO determines it is appropriate;

- (b) the person to whom the Trespass Notice was issued contravened the Trespass Notice; or
  - (c) the person engaged in further or continued prohibited conduct.
- 3.6 A senior staff person or the Deputy CAO may revoke or suspend a Trespass Notice given under this section and may impose such conditions respecting the revocation or suspension as the senior staff person or the Deputy CAO considers appropriate.
- 3.7 Without limiting any other provision of this by-law, any senior staff person and/or the Deputy CAO are authorized to issue authorization letters where that person has determined that doing so is appropriate in the circumstances.

#### **PART 4: APPEAL**

- 4.1 A person who has received a Trespass Notice or extension of a Trespass Notice with an aggregate term of **more than 30 days** may appeal to the appeal officer by submitting a written request to the Regional Clerk together with payment of the appeal fee, if any, within 14 days after being served with the Trespass Notice or extension of the Trespass Notice.
- 4.2 In circumstances where the appeal officer (CAO) was involved in the determination of the terms of the Trespass Notice or any extension of the Trespass Notice, or where the appeal officer (CAO) has any actual or potential conflicts of interest, the appeal officer (CAO) shall refer the appeal to the Deputy CAO or a Commissioner, as deemed appropriate in the discretion of the appeal officer, who shall carry out all duties of the appeal officer under this by-law in respect of the appeal.
- 4.3 A person who appeals pursuant to section 4.1 shall be given no fewer than 14 days' notice of:
- (a) the manner of the hearing, whether in person, by phone, virtually or in writing; and
  - (b) the date, time, and place of the appeal hearing.
- 4.4 The following applies to the appeal hearing:
- (a) before making their decision, the appeal officer shall give each of the senior staff person (or the Deputy CAO where applicable) and, subject to subsection 4.3, the appellant, an opportunity to be heard, orally or in writing, at the time and place scheduled for the appeal; and

- (b) if a person who appeals a Trespass Notice fails to participate in or attend the hearing of the appeal as notified pursuant to section 4.3, the Trespass Notice shall be affirmed and the appeal shall be dismissed.
- 4.5 On an appeal, the appeal officer may:
  - (a) revoke the Trespass Notice;
  - (b) modify the Trespass Notice, including, without limitation, shortening the term of the Trespass Notice or removing prohibited locations from the Trespass Notice; or
  - (c) affirm the Trespass Notice.
- 4.6 The appeal officer shall give their final decision in writing in accordance with Part 5 of this by-law and shall give reasons in writing if requested by a party within seven (7) days after the decision is given.
- 4.7 The decision of an appeal officer is final and is not subject to further appeal or review.

## **PART 5: NOTICES**

### **5.1 Methods of Giving Notice**

- (a) Any notice given by the Region pursuant to this by-law in writing may be given in any of the following ways:
  - i. personally;
  - ii. by e-mail to the recipient's last known e-mail address; or
  - iii. by registered or regular mail or courier or hand delivery addressed to the recipient's last known address.

### **5.2 Deemed Effective**

- (a) Notice given in accordance with section 5.1 shall be deemed to be effective:
  - i. on the date it is personally given or delivered by courier or hand delivered;
  - ii. on the date the e-mail is sent; or
  - iii. on the fifth day after the date of mailing by registered or regular mail.

**PART 6: EXCEPTIONS**

- 6.1 A Trespass Notice issued pursuant to this by-law does not prevent a person from entering or remaining in a meeting room for the purpose of attending a Council or Committee meeting where virtual viewing or delegation is not made available by the Region, if the person complies with the following conditions:
- (a) the person notifies the Regional Clerk of the person's intention to attend the meeting no later than 24 hours prior to the scheduled commencement of the meeting;
  - (b) the person enters the meeting room no earlier than 15 minutes prior to the scheduled commencement 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 each direction given by the Regional Chair or the Committee Chair, as applicable, and the Region's Procedural By-law, respecting conduct at the meeting.
- 6.2 If a person who has received a Trespass Notice needs to enter Regional premises to conduct business with the Region and is prevented from doing so by the Trespass Notice, the person may seek an exception by requesting an invitation to attend from the senior staff person who gave the person the Trespass Notice (or Deputy CAO where applicable, including where the Trespass Notice was issued by an authorized person), which request shall include the following information:
- (a) the purpose for attending at the Regional premises;
  - (b) the reasons why attending at the Regional premises is necessary; and
  - (c) the address of the Regional premises where the person wishes to attend.
- 6.3 A senior staff person or the Deputy CAO may give to a person who has received a Trespass Notice an invitation to attend a Regional premises which may specify the following:
- (a) the purpose for attending at the Regional premises;
  - (b) the date and time of the approved attendance at the Regional premises;

- (c) the address of the Regional premises where the person is approved to attend;
- (d) instructions for who to contact when the person arrives for the approved attendance at the Regional premises; and,
- (e) that the Trespass Notice remains in effect except for the approved attendance in accordance with the invitation to attend.

**PART 7: GENERAL**

- 7.1 Nothing in this by-law limits the Region’s ability to enforce its rights under the Act by any legal means.
- 7.2 Any Trespass Notice issued prior to the passage of this by-law shall remain in full force and effect, shall be deemed to have been issued under this by-law, and shall expire in accordance with its original terms unless extended in accordance with this by-law.
- 7.3 For the purposes of any appeal of a Trespass Notice issued prior to the passage of this by-law, the appeal process set out in this by-law shall apply.
- 7.4 If a court of competent jurisdiction declares any provision or part of a provision of this by-law invalid, the provision or part of a provision is deemed severable from this by-law, and it is the intention of Council that the remainder of this by-law shall continue in force.
- 7.5 The short title of this by-law is the “Trespass By-law”.
- 7.6 This by-law shall come into full force and effect on the day it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: < >