

<b>Policy:</b>	500.08 Trespass Warning on City Property
<b>Section and Chapter:</b>	General – Use of City Facilities
<b>Type:</b>	Policy with Administrative Procedures
<b>Effective / Last Revision:</b>	04/05/2022

**POLICY STATEMENT**

The City of Denton (City) recognizes its duty to be a responsible steward of City assets. The City also desires to provide the public and City staff at City Property, buildings and facilities, to the extent permitted by law, an environment free from unlawful and disruptive behavior and activities that interfere with City and public business and activities.

The City Council has authorized delegated authority to the City Manager and designees to act on its behalf as owner of City buildings and facilities to enact and enforce a trespass policy excluding criminal trespassers, trespassers, and any persons engaging in disruptive, illegal or harmful activities from City Property, buildings, and facilities.

The City developed this policy:

- a. To create a uniform process for issuing notices to people whose entry onto City Property, or continued presence on City Property, may be illegal, unreasonably disruptive or harmful to City Property or to conducting City business, to other persons' use or enjoyment of approved activities on City Property, or to the safety of staff or other persons; and
- b. To provide persons receiving a Trespass Warning with the opportunity for a prompt administrative review of the terms of the Trespass Warning.

This policy shall be posted on the City's website and shall remain on file with the City Secretary.

**DEFINITIONS**

1. “Trespass Warning” means a verbal or written communication to a person that his or her presence or entry onto certain City Property is prohibited and the person must immediately leave such City Property. The Trespass Warning should address other items regarding this prohibition according to this policy.
2. “City Property” means City-owned buildings and surrounding City-owned property, any City-leased buildings and surrounding leased property and any area over which the City has control; City park lands and other City-owned or operated recreational areas and facilities; City-owned parking garages, facilities, and parking lots; and all other City-owned lands.
3. “Authorized Employee” means the City Manager and designees having authority to verbally warn and/or request a Denton Police Officer to issue a Trespass Warning according to this policy.

## **ADMINISTRATIVE PROCEDURES**

### **I. APPLICABILITY**

- A. Conflict. To the extent of any irreconcilable conflict between this policy and terms of another more specific City policy concerning a specific department, facility, or premises, the terms of the more specific policy shall control. To the extent of any irreconcilable conflict between this policy and the terms of an ordinance, the ordinance shall control.
- B. Addition. This policy is in addition to and does not bar or preclude Denton Police Officers from performing their lawful duty to enforce any trespass laws or to issue a criminal trespass warning under other authority. Also, any person arrested on City Property for a criminal offense may receive a Trespass Warning.
- C. First Amendment Rights Acknowledged. The Authorized Employee shall have authority to consider and authorize a person subject to a Trespass Warning to enter City Property to exercise First Amendment rights if there is no other reasonable alternative location to exercise such rights or to conduct necessary City business.

### **II. DELEGATION OF AUTHORITY**

- A. Authorized Employees. Authorized Employees shall have authority to request the issuance of a Trespass Warning to any person whose conduct on City Property violates this policy. An Authorized Employee may also request a Denton Police Officer to issue a written criminal trespass warning according to the Texas Penal Code to a person violating this policy if it is reasonably believed such conduct constitutes a criminal offense. Specifically, the City Manager delegates the non-exclusive authority to request a Trespass Warning under this policy to the following Authorized Employees:
  - 1. All Deputy and Assistant City Managers;
  - 2. All Department Directors and Deputy/Assistant Department Directors, but limited to buildings and lands within the control or area of responsibility of their respective departments; and
  - 3. Any other City departmental supervisory personnel responsible for managing, maintaining, or staffing City Property, but limited to buildings and lands within the control or area of their responsibility.
- B. Additional Authorized Employees. The City Manager may delegate their non-exclusive authority to request a Trespass Warning to any other City employee they deem appropriate in writing, given their general area of responsibility within the City.
- C. Expiration. A delegation of authority under this policy expires upon the reassignment, employment separation, termination, or retirement of the Authorized Employee, or upon revocation by the City Manager at any time for any reason.

### III. TRESPASS WARNING PROCEDURES

- A. Verbal Warning. Unless a person's conduct violates section C below, an Authorized Employee should, before requesting a written Trespass Warning to that person:
1. Verbally warn the person that their conduct is in violation of law, City policy, rules, or interfering with another person's reasonable use and enjoyment of City Property;
  2. Give the person a reasonable opportunity to cease violating the law, City policy, rules, or interfering with another person's reasonable use and enjoyment of City Property; and
  3. Not issue a Trespass Warning to the person if the person promptly ceases the conduct at issue after receiving the verbal warning.
- B. Written Trespass Warning after Verbal Warning. An Authorized Employee may authorize a peace officer to issue a criminal trespass warning to a person for conduct occurring on City Property that may be illegal, unreasonably disruptive, and harmful to City Property or conducting City business, or interfering with another person's reasonable use or enjoyment of approved activities on City Property. The conduct includes, but is not limited to, conduct violating the following City ordinances, rules, policies, or guidelines:
1. Park and other curfew violations;
  2. Park rules violations;
  3. Facility use violations;
  4. Noise ordinance violations;
  5. Interfering with another person's reasonable use and enjoyment of approved activities on City property; and
  6. Any other City ordinance violations including, but not limited to, camping, solicitation, and possession and consumption of alcoholic beverages ordinance violation.
- C. Grounds for Issuing a Trespass Warning with no Verbal Warning. An Authorized Employee may authorize a peace officer to issue a criminal trespass warning to a person without a verbal warning if the person has engaged in conduct that is unreasonably disruptive or harmful to City Property, to conducting City business, or to another's reasonable use and enjoyment of approved activities on City Property, and that may:
1. Be a state or federal criminal offense or ordinance violation or is an attempt, solicitation, or conspiracy to commit a state or federal criminal offense or ordinance violation, or
  2. Have resulted in, or threatened to cause, injury to any person or damage to any property or an immediate breach of the peace.
- D. Contents of a Trespass Warning. The written Trespass Warning should include the following items:

1. Reasons for Exclusions. A statement of the reason the person is being notified or warned not to enter an area or to immediately depart from an area and explaining the conduct for the Trespass Warning.
  2. Area of Exclusion. The Trespass Warning shall describe the area or building(s), including the building name and address that the person shall not enter, so that a reasonable person may understand the specific area to which the person may not return. Multiple city locations may apply based on the circumstances when the Trespass Warning is issued.
  3. Duration of Exclusion. A Trespass Warning shall be for a specific time period based on the seriousness of the conduct. The specific time period a person may not return will be established by the Authorized Employee based on relevant factors including:
    - a. Conduct involving intentional damage to City Property;
    - b. Conduct involving intentional injury or offensive contact with any person;
    - c. Conduct that is disruptive or harmful to City business or another's reasonable use and enjoyment of approved activities on City Property; and
    - d. Whether the person has previously engaged in similar conduct on City Property.
  4. Reentry Warning. The Trespass Warning shall include notice that reentry may result in an arrest while such warning is in effect. If Trespass Warning occurs on City Property that is used to conduct city business, information on how to continue to conduct business, such as a phone number or email, will be provided.
  5. Notice of Administrative Review Process. A Trespass Warning shall contain information that informs the person of the administrative review procedure.
  6. Police Department Records. A copy of the Trespass Warning shall be sent to the Denton Police Department Records.
- E. Trespass Warning Duration Guidelines. A Trespass Warning shall be in effect from the issue date:
1. Up to six (6) months if not related to a violation of law or city ordinance.
  2. Up to one (1) year from the date the warning was issued for violation of law or city ordinance.
  3. The severity of the incident causing the criminal trespass warning to be issued shall be taken into consideration when determining the duration of the trespass. The duration of the criminal trespass warning shall be subject to the Administrative Review process if one is requested by the person receiving the Trespass Warning.

#### **IV. ADMINISTRATIVE REVIEW OF A TRESPASS WARNING**

- A. Request for Review. The person receiving the Trespass Warning may request an administrative review of all or any part of the Trespass Warning. The request for review must be submitted in writing by completing the provided Administrative Review Form and

submitting the form in-person or through electronic email to the Municipal Judge’s office as detailed on the form. The form must be completed and received by the Municipal Judge’s office no later than thirty (30) days after the Trespass Warning issue date. If the person does not meet this requirement, the Trespass Warning becomes final. Such a request for review does not stay or suspend the Trespass Warning. The burden of proof is on the person requesting the review.

B. Review Procedures. The Municipal Judge or designee shall perform an informal review. Findings should generally be issued by written memo upon receipt of a timely request. The Municipal Judge or designee conducting the informal review should decide the issues based on the known evidence. If requested, any Authorized Employee shall comply with any request for information sent to them by the Judge or designee. The Municipal Judge or designee should make a written determination on the issues not later than ten (10) business days after receiving the review request. The Municipal Judge may alter the response time if there is reasonable cause. The written determination shall be promptly provided to the requestor at the provided address/email and made available in the Municipal Judge’s Office. Denton Police Records will also be notified. The determination shall be to affirm, reverse or modify the Trespass Warning, and shall state the reasons for the determination. The decision of the Municipal Judge or designee on a request for review is final. The Municipal Judge or designee should consider all relevant information provided and should include the following:

1. Whether the Trespass Warning was issued for a reason set out or otherwise consistent with this policy; and
2. Whether the area and duration of the Trespass Warning are appropriate under the facts and circumstances.

C. Municipal Judge Authority. The Municipal Judge in their sole discretion may determine good cause exists to modify the administrative review processes described in this section, accommodate review more quickly, informally, later or to make any other modifications as they determine is appropriate keeping in mind the legal rights and concerns of all.

D. Good Faith, Substantial Compliance. This policy is intended to provide notice, standard procedures, proper management, authority delegation, and consistency in due process. Failure to meet one or more of the provisions of this policy does not invalidate a Trespass Warning issued in good faith and with substantial compliance with this policy.

**REFERENCES**

- None

**REVISION HISTORY**

Revision Date	Policy Owner	Summary
04/05/2022	P. Pohler (Police)	<ul style="list-style-type: none"> <li>• Initial Policy Adoption</li> <li>• Policy Statement Adopted by City Council</li> </ul>