

GENERAL ORDER

April 2016

Immediately

V.5:32

Distribution: All Employees

Subject: **TRESPASSING**

Index as: Authorized Person
City-Owned Property, Trespass Form
Limited Trespass Authorization

Private Property, Trespass Form
Trespassing
Warning, Trespass

Accreditation Standards:

Cross Reference: Legal Notice 2012-01
City Ordinances 20-29 and 20-30;
§810.08 F.S.S. and §810.09 F.S.S

Replaces: I.O. V.5:32, Trespassing (August 28, 2017)

This Order describes the procedures for the issuance of a *Trespass Warning*. It consists of the following sections:

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- II. [Policy](#)
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I. PURPOSE

A. This Order establishes guidelines for issuing a *Trespass Warning* and describes how to use the [Limited Trespass Authorization Form](#).

II. POLICY

A. It is the policy of the Department to assist citizens, businesses, and City government in the capacity of a property owner, in maintaining a safe and healthy environment by issuing and enforcing a *Trespass Warning*.

B. Nothing in this policy limits the authority of an Officer to arrest any individual found upon any premises, public or private, that is conspicuously posted as “No Trespassing” by an Authorized Person, according to Florida Statutes.

C. A [Limited Trespass Authorization Form](#) will be provided to an individual, upon their request, and when there is not a continuous presence of an Authorized Person on the private, property to issue a *Trespass Warning*.

D. Under no circumstances will an Officer issue a *Trespass Warning* to anyone based on race, creed, color, sex, sexual orientation, physical disability, religion or national origin.

III. DEFINITIONS

A. Authorized Person –

1. Any owner, lessee, agent, private management company, or
2. A Law Enforcement Officer whose department has received written authorization from the owner or lessee, or their agent, to communicate an order to depart the property in the case of a threat to public safety or welfare [810.08(3) and 810.09(3), Florida Statutes].

B. Limited Trespass Authority – The written permission from an Authorized Person, granting the authority to an Officer of the St. Petersburg Police Department to communicate an order to depart the property when there is a threat to public safety or welfare as specified on the State Attorney's [Victim Witness Form](#).

C. City-Owned Property – City-Owned Property constitutes a facility, building, property, recreation center or outdoor area that is **owned by the City of St. Petersburg**. Some of these places include municipal parks, City Hall, public libraries, recreation centers, Al Lang Field, the Coliseum, etc. This does not include rights-of-way, sidewalks or alleys.

D. Private Property – Private Property constitutes a facility, building, property or outdoor area that is **NOT** owned by the City of St. Petersburg. For the purpose of this Order, some of these places include strip malls, shopping centers (such as Tyrone Square Mall, Sundial, Walmart, etc.). Also considered private property are government - owned properties, such as the courthouse, a PSTA bus shelter or uncovered bench, Tropicana Field, Pinellas County Schools, etc.

E. Trespass – As defined in sections 810.08 and 810.09, Florida Statutes, the uninvited, unlicensed, and unauthorized presence of an individual in or on the real property, structure or conveyance of another; or the continued presence of an individual having been previously licensed, invited, or authorized after being warned by the Authorized Person to depart or in violation of the posted signage in accordance with section 810.011, Florida Statutes.

F. Trespass Warning – A communication from an Authorized Person to an undesired individual warning them to depart the property and to not return.

G. Trespass Warning Form – A written communication by an Officer, informing an individual that they are to depart from private or City-Owned property for a specified period of time, at the direction of an Authorized Person.

IV. CONSIDERATIONS BEFORE ISSUING TRESPASS WARNINGS

A. An Officer must ensure that the individual requesting the *Trespass Warning* to be issued is an Authorized Person.

1. The tenant of either a residential or commercial property generally has sufficient authority over the property to exclude an individual from the property.
2. For commercial properties, the Officer should conduct business with the on-duty manager or senior employee.

B. When the property is an individual store in an enclosed or strip mall, the individual's authority will likely be limited to the store premises and would not extend to the exterior common areas. Typically, control over the common areas of a multi-unit commercial property will remain with the owner or manager of the entire property. In this event, a tenant could not request to have an individual "trespassed" from the entire property.

C. The Authorized Person of a chain store does not typically have the authority to have an individual trespassed from other stores elsewhere within the chain in the City. If circumstances should arise where such action would be appropriate, it will be necessary to issue a *Private Property Trespass Warning Form* for each individual store, by address.

D. Physical relocation of residential tenants and/or commercial tenants.

1. A *Private Property Trespass Warning Form* is associated with a specific address in the Computer-Aided Dispatch (CAD) system. The Investigating Officer must ensure the Authorized Person, who originally requested an individual be trespassed, is still occupying the premises.

2. If there is a new residential or commercial tenant, the individual who has been trespassed should NOT be arrested, and the original *Private Property Trespass Warning Form* should be rescinded in the system.

3. If the new Authorized Person wishes to renew the *Trespass Warning*, a new *Private Property Trespass Warning Form* must be issued to the individual to be trespassed.

V. TRESPASS WARNINGS ON PRIVATE PROPERTY – PROCEDURES

A. A *Private Property Trespass Warning Form* may be issued when an Authorized Person is present and determines that an individual is no longer welcome on private property, including private property open to the public. Examples include, but are not limited to, shoplifters, individuals violating rules or engaging in criminal conduct, or a homeowner wishing to eject a visitor.

1. If the individual to be trespassed is present when the Officer arrives, an Authorized Person should advise the individual that their presence is no longer welcome on the premises in the presence of the Officer.

2. The *Private Property Trespass Warning Form* will be completed to document the *Trespass Warning*.

3. The reason for the *Trespass Warning* will be explained on the *Private Property Trespass Warning Form*.

4. While an Authorized Person retains the right to decide how long the individual may be restricted from the property, the three-tiered system, as described in this Order is preferred.

5. Only handwritten *Private Property Trespass Warning Forms* will be used. The *Trespass Warning* will also be documented by completing the *Trespass Warning* portion of the Field Contact Module in **Records Management System (RMS)**.

6. If the individual refuses to leave the premises after being warned by an Authorized Person, the individual may be arrested for trespass after warning.

B. For a *Trespass Warning* on private property, the Department will utilize a **three-tiered** approach and will, at the direction of the complainant:

1. Issue a 24-hour *Trespass Warning*.

2. Issue a one-year *Trespass Warning*.

3. Issue a Permanent *Trespass Warning*.

C. There are exceptions as to when the time for a *Trespass Warning* may be different than those listed above. These should be limited to special events or sporting events where a specific time may be warranted. An example of this would be a baseball home-stand, where a disruptive patron may be trespassed for the entire home-stand (3 or 4 days) or something similar. The specific time should be noted in the “Other” check-box on the *Private Property Trespass Warning Form*.

D. The length of time for a trespass warning will be documented on the *Private Property Trespass Warning Form*.

E. An event number must be listed on the *Private Property Trespass Warning Form*. If there is a resultant case number, **BOTH** numbers will be included on the *Private Property Trespass Warning Form*.

VI. LIMITED TRESPASS AUTHORITY

A. Sections 810.08(3) and 810.09(3), Florida Statutes permit a Law Enforcement Officer to act as an Authorized Person in order to issue a *Private Property Trespass Warning Form*.

B. Before an Officer may issue a *Private Property Trespass Warning Form* as an “Authorized Person,” the Authorized Person requesting this assistance from the St. Petersburg Police Department must:

1. File a written request, [Limited Trespass Authorization Form](#), with the Department including a State Attorney’s [Limited Trespass Authorization Victim Witness Form](#), indicating the effective times of the Limited Trespass and documenting the Authorized Person’s concern regarding a threat to public safety and welfare.

2. The property may or may not be posted with “No Trespassing” signage. If the property is equipped with the signage as outlined in section 810.011, Florida Statutes, and it is determined that the trespasser is in violation of the signage, an arrest may be made. If the property is not equipped with the signage as outlined in section 810.01, an arrest will not be made if the subject has not been previously warned.

C. As provided by law, an Officer may issue a *Private Property Trespass Warning Form* to an individual to depart the property if an Authorized Person is not present on the property.

D. Identification of qualifying properties

1. An Authorized Person may request that the Department assume **Limited Trespass Authority**, or this course of action may be suggested to an Authorized Person responsible for the private property.

2. There must be a documented concern for public safety or welfare. A [Limited Trespass Authorization Form](#) will not be accepted:

- a. Simply as a matter of convenience for an Authorized Person or for the Department, or
- b. When there is a continuous presence of an Authorized Person who may issue a Trespass Warning.

E. Documenting a *Limited Trespass Authorization*

1. A report will be written documenting the reason(s) why the Limited Trespass Authorization is necessary. The [Limited Trespass Authorization Form](#) will be forwarded to the Records Division to be matched with the submitted report. LEADS Unit personnel will electronically route the report, with attached documents, to the designated Supervisor, Emergency Communications Center.

2. A designated Emergency Communications Center Supervisor will create a CAD note identifying the property as being the subject of *Limited Trespass Authorization*; the CAD note will:

- a. List the associated case number; and
- b. The expiration date for the Limited Trespass Authorization.
 - 1) The *Authorization* will be valid for a period of two (2) years or until a new owner or lessee takes control of the property; and
 - 2) At the end of two (2) years, or in the event the property is transferred, a new Authorized Person may renew the *Limited Trespass Authorization* by following the procedure set forth above.

F. The Authorized Person may elect to post warning signs on the property which may be seen by anyone entering onto the property. Per [section 810.011, Florida Statutes](#),

Signs are placed not more than 500 feet apart along, and at each corner of, the boundaries of the land, upon which signs there appears prominently, in letters of not less than two (2) inches in height, the words “no trespassing” and in addition thereto the name of the owner, lessee, or occupant of said land. Said signs shall be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line;

G. Issuance of a Trespass Warning under the Limited Trespass Authorization

1. No enforcement action will be taken under the Limited Trespass Authorization unless an individual has previously been warned (verbally or in writing) by an Authorized Person or unless there are properly posted warning signs on the property.

2. If an Authorized Person, other than the Officer, is present on the property at the time a warning is to be issued, the warning will be made by the Authorized Person and documented on the *Private Property Trespass Warning Form* by the Officer.

3. If an Authorized Person is not present and a current Limited Trespass Authorization is on file, a *Private Property Trespass Warning Form* may be issued to an unauthorized individual(s) on the property who presents a threat to public safety or welfare:

a. An Officer may issue a Private Property Trespass Warning consistent with the time periods listed in this Order; and

b. The Officer will complete a *Private Property Trespass Warning Form*. The Officer will also document the reason for the Trespass Warning and the time period of the Trespass Warning on the same form.

4. If a police report is needed, the case number and the event number will be listed on the *Private Property Trespass Warning Form*. If no police report is needed, only the event number should be listed on the form.

5. The original handwritten *Private Property Trespass Warning Form* will be turned into the **Records** Division. The Trespass Warning will also be documented by completing the Trespass Warning portion of the Field Contact Module in RMS.

6. **Records** Division personnel will scan the original handwritten form and attach the digital image to the Trespass Warning Field Contact in RMS.

VII. CANCELLATION OF A LIMITED TRESPASS AUTHORIZATION

A. The Limited Trespass Authorization will be cancelled when:

1. The Authorization expires two (2) years after acceptance;

2. The ownership of the property changes, or if the Limited Trespass Authorization was requested by an Authorized Person upon expiration of the lease;

3. There is noncompliance by an Authorized Person, such as:

- a. Failure to place warning signs;
- b. Failure to cooperate with prosecution; or
- c. Failure to cooperate with the Department.

4. If there is noncompliance by an Authorized Person, the Investigating Officer will submit a memorandum to their District Commander, documenting the incident and the specific act(s) of noncompliance. The District Commander will determine if the Limited Trespass Authorization will be revoked.

B. A list of Limited Trespass Authorizations will be maintained in the District offices for all affected properties within the District. The Community Service Unit in each District will be assigned to contact the Authorized Person for each property once every two (2) years to confirm ownership of the property, and also to advise them of any arrests that have occurred because of violations of the Limited Trespass Authorization.

C. A report link will be sent by the LEADS Unit personnel to the designated Supervisor, Emergency Communications, for updating the notes in the CAD system and to the Community Liaison Sergeant, or designee, for the updating of the CARS database.

VIII. TRESPASS WARNING – ON CITY-OWNED PROPERTY – PROCEDURES

A. An individual who violates State law, City ordinance or a Rule or Regulation as provided in Ordinance 20-30, while on or within any City-Owned property, may be issued a *City-Owned Property Trespass Warning Form* for the specific City-Owned property where the violation occurred.

B. An Authorized Person, having control over the City-Owned property where the violation occurred, may verbally direct an individual(s) to leave and request an Officer issue a handwritten *City-Owned Property Trespass Warning Form*.

C. If an Authorized Person is not present, with supervisory approval, a *City-Owned Property Trespass Warning Form* may be issued by an Officer when the violation occurs on or within any City-Owned property.

D. Violators may be issued a *City-Owned Property Trespass Warning Form* as follows:

1. For the first violation, the individual may be issued a *Trespass Warning* for a period not to exceed one year; and

2. For a second or subsequent violation, the individual may be issued a *Trespass Warning* for a period not to exceed two years.

E. Only handwritten *City-Owned Property Trespass Warning Forms* will be used.

F. If an Officer anticipates that a *City-Owned Property Trespass Warning Form* will be issued on City-Owned property, they will request a supervisor respond to the scene.

G. The Officer will complete the *City-Owned Trespass Warning Form* and have it reviewed by the on-scene supervisor. Once reviewed, the on-scene supervisor will sign the form at the bottom.

H. The on-scene supervisor will:

1. Determine that the property is City-owned.

2. Verify the correct *City-Owned Trespass Warning Form* was completely and accurately filled out by the Officer.

3. Ensure there is a valid reason to issue the *Trespass Warning*.

4. Sign the bottom of the *City-Owned Trespass Warning Form*.

I. The *City-Owned Property Trespass Warning Form* should also be signed by the individual being trespassed, unless they refuse; then the Officer will write “refused” on the form.

J. The Officer will document the issuance of the *City-Owned Property Trespass Warning Form* in a police report. The report **MUST** include the specific reason(s) as to why the subject was trespassed from the City-owned property. The *City-Owned Property Trespass Warning Form* will be further documented by completing the *Trespass Warning* portion of the *Field Contact Module* in RMS.

K. When a *City-Owned Property Trespass Warning Form* is issued, the Officer will provide a copy of the form to the individual being trespassed. The written *City-Owned Property Trespass Warning Form* advises of the right to appeal and the location and telephone number for filing the appeal. The right to an appeal applies only to the individual trespassed from City-Owned property.

L. If an appeal is requested, it must be filed at the Information Desk of the St. Petersburg Police Department. The individual trespassed from City-Owned property must sign their name on the *Signature for Appeal* line on the *City-Owned Property Trespass Warning Form* and provide a phone number, if one is available.

M. When the appeal is filed, Information Desk personnel will:

1. Verify that the individual trespassed from City-Owned property has signed the *Signature for Appeal* line on the *City-Owned Property Trespass Warning Form*.
2. Verify that a phone number, if available, is provided.
3. Date and time stamp the receipt of the appeal in the upper right corner of the *City-Owned Property Trespass Warning Form*.
4. No fee is assessed to the appellant for filing an appeal.

N. The original *City-Owned Property Trespass Warning Form* will be filed with the **Records** Division. **Records** Division personnel will scan the handwritten *City-Owned Property Trespass Warning Form* and attach the digital image to the Trespass Warning Field Contact in RMS.

O. If the complainant's copy of the *City-Owned Property Trespass Warning Form* was not provided to the individual at the scene, it will be forwarded to the **Records** Division. **Records** Division personnel will forward it to the City Services Administrator or the Authorized Person having control over the City-Owned property where the offense occurred.

P. The Authorized Person having control over a City-Owned facility, building, recreation center or outdoor area, including municipal parks, may:

1. Authorize an individual, who has received a Trespass Warning as detailed in this Order, to enter the property or premises to exercise their First Amendment rights or to conduct necessary municipal business. Such authorization must be in writing and will not be unreasonably denied.
2. Withdraw the *City-Owned Property Trespass Warning Form* by notifying the Police Department in writing.

Q. Appeals will be heard by a Hearing Master with whom the City contracts to provide this service. Notice will be provided to the appellant in one of two ways:

1. The Notice of Hearing will be posted at the Information Desk of the Police Department, or
2. By phone, if a telephone number has been provided. If the appellant cannot be reached by telephone, the posted notice at the Information Desk will be sufficient notice.

R. A hearing will occur between seven (7) to thirty (30) days from the filing of the appeal. The Hearing Master will issue a written decision within five (5) days of the hearing. The decision of the Hearing Master is final, and the appellant will be deemed to have exhausted all administrative remedies. The Trespass Warning will remain in effect during the appeal and review process.

IX. DEPARTING TRESPASSER, REFUSAL TO DISCLOSE IDENTITY

A. Although the Trespass Warning forms require identifying information about the individual being trespassed, if the individual agrees to leave the premises upon request by an Authorized Person, including a Law Enforcement Officer, the individual cannot be compelled to disclose their name or produce identification. The courts have held that under these circumstances, the Officer is conducting such a stop as an agent of the property owner and, therefore, engaged in a consensual encounter, not a *Terry* stop. As a result, a citizen's mere refusal to provide accurate information during such a consensual encounter will not support an arrest for obstructing an Officer under section 843.02, Florida Statutes. *Rodriguez v. State*, 29 So. 3d 310 (2d DCA 2009).

B. If the individual leaves the premises prior to police arrival, but is located nearby, the Officer may issue the *Trespass Warning Form*. The individual need not be physically present on the premises to receive the *Trespass Warning Form*.

C. If the individual is known to the Officer or can be identified by other means, the Officer may complete the *Trespass Warning Form* and forward the individual's copy by certified mail, return receipt requested, if a mailing address is known.

X. ARRESTS FOR TRESPASS AFTER WARNING

A. Any individual receiving a *Trespass Warning Form* and who refuses to immediately depart, or who returns to the property uninvited, may be subject to arrest.

B. When an individual is found on private property where entry is restricted under a Limited Trespass Authorization:

1. The Investigating Officer will check the Field Contacts Module in RMS to see if a *Private Property Trespass Warning Form* has been issued to the individual for that address.

2. If the individual's name is not in the Field Contacts Module as a Trespass Warning, no arrest will be made, unless the Investigating Officer has personal knowledge that a Trespass Warning has been issued to the individual, **and** if the reason the individual's name does not appear in RMS is because there has not been enough time to enter the Trespass Warning.

3. If an arrest is made, the Officer will document in the police report the:

- a. Fact that the arrest was made under a Limited Trespass Authorization,
- b. Date the original *Private Property Trespass Warning Form* was issued, and
- c. Event number or case number for the original *Private Property Trespass Warning Form*.

C. **Records** Division personnel will forward a copy of the *Limited Trespass Authorization Form*, along with the copy of the arrest report, to the State Attorney's Office.

Anthony Holloway
Chief of Police