

CITY OF BARRE
Procedures for Notices Against Trespass on City Property

1. **City officials authorized to issue notice against trespass.** Consistent with Section 25-3 of the City's Code of Ordinances, the City Council and City Manager hereby expressly authorize each Authorized Official (as such term is defined in Section 25-3 of the City's Code of Ordinances) to issue a notice of trespass.
2. **Issuance of notice against trespass.** As stated in Section 25-4 of the City's Code of Ordinances, if an individual violates any City ordinance, rule or regulation (including any code of conduct), or State law, or while on or within or on a City-owned property fails to follow the lawful directive of an Authorized Official, an Authorized Official may issue a notice against trespass for a violation which was committed while on or within a City-owned property, including, but not limited to, municipal buildings, parks, parking lots, sidewalks and streets.
3. **Verbal warning.** Prior to issuance of the notice against trespass, the Authorized Official should ensure that the person to whom the Authorized Official intends to issue a notice against trespass has been informed of the basis for the notice against trespass and has been given an opportunity and reasonable amount of time to change or address the underlying conduct – that is, a verbal warning should have been issued. However, a verbal warning need not be issued if the reason for the notice against trespass is an accusation of serious harmful conduct such as arson, assault, harassment or a threat of such conduct.
4. **Service of notice – Content.** In most cases, the notice against trespass should be hand-delivered to the person to whom it is issued by an Authorized Official; however, if the circumstances do not permit safe delivery of the notice in person, in the discretion of the Authorized Official, it may be mailed to the individual's address of record. The written notice against trespass should detail the basis for which the notice against trespass was issued, the length of time for which the notice against trespass remains in effect, and the consequences for violating the terms of the notice against trespass. It should also advise the recipient of the right to contest the notice against trespass by filing an appeal with the City Manager, or the City Manager's designee, within seven (7) calendar days in accordance with Paragraph 6 below.
5. **Length of notice against trespass.**
 - a. For minor, first-time violations, such as Class C violations (as defined below), the notice may be issued for up to one (1) day.
 - b. For moderate violations, such as Class B violations (as defined below), or for a second offense within one (1) year, the notice may be issued for up to thirty (30) days.
 - c. For more serious violations, such as Class A violations (as defined below) or a third offense within one (1) year, the notice may be issued for up to one hundred eighty (180) days.

- d. Generally, it is expected that the length of time should reflect the severity or repetitiveness of the underlying violation. Only for more serious offenses such as violations that involve violence, harassment, or threats of physical harm to an individual may a notice be issued for over one hundred eighty (180) days, and in any event, a notice against trespass should not be issued for more than two (2) years.
- e. *Class A violations.* The following acts are designated as Class A violations:
 - i. Activities or behavior that may result in injury or harm to any other person, including challenging another person to fight or engaging another person to fight.
 - ii. Directing a specific threat of physical harm against an individual, group of individuals, or property.
 - iii. Engaging in sexual conduct or lewd behavior.
 - iv. Possession, use, selling, or distribution of any regulated drug.
 - v. Destroying, abusing, or damaging City property or resources.
 - vi. Stalking.
- f. *Class B violations.* The following acts are designated as Class B violations:
 - i. Entering restricted spaces without permission.
 - ii. Disturbing any lawful assembly or meeting or persons, without lawful authority.
 - iii. Public urination or defecation.
- g. *Class C violations.* The following acts are designated as Class C violations:
 - i. Using City resources in a manner inconsistent with their intended use.
 - ii. Having constructive or actual possession of an open alcoholic beverage container in any public place or in any motor vehicle located in a public place, or consuming the contents of an open alcoholic beverage container in any public place or in any motor vehicle in a public place, except as allowed at a City-approved event.
 - iii. Violating a Smoke Free Area.

- iv. Failing to abide by posted City rules.
- v. Failing to follow the reasonable direction of City staff related to a City rule or policy.
- vi. Obstructing vehicular or pedestrian traffic.
- vii. Using abusive or obscene language.
- viii. Unreasonable noise.

6. **Appeal.**

a. *Process.* Excepting a 1-day notice against trespass, the recipient of a notice against trespass may appeal the notice against trespass by filing an appeal, in writing, within seven (7) calendar days of the issuance of the notice. The written appeal shall include the appellant's name, address, phone number, or, if such contact information is unavailable, information for how the appellant may be contacted, and indicate whether a hearing is requested. No fee shall be charged for filing the appeal. The appeal shall be filed with the City Clerk. Except for in Exigent Circumstances (as defined below), any such appeal shall stay the operation of the notice against trespass beginning the day after the appeal is filed, pending a written decision.

b. *Exigent circumstances.* For purposes of this policy, "**Exigent Circumstances**" means any situation in which the Authorized Official reasonably determines that a person presents an immediate and substantial threat or danger to the health, safety, or welfare of another person. In such circumstances, an appeal shall not stay the operation of the notice against trespass.

c. *Hearing.* All appeals made under this policy shall be heard by the City Manager, or the City Manager's designee (the "**Decisionmaker**"), provided however that the Decisionmaker shall not be the Authorized Official who issued the notice against trespass that is subject of the hearing.

d. *Procedure.*

- i. When an appeal is filed, and if a hearing is requested, the Decisionmaker should set a hearing for a date within ten (10) business days of such filing date. The appellant must be provided at least three (3) business days' written notice of the date, time, and location of the hearing.
- ii. The Decisionmaker shall allow oral and/or written testimony and evidence from the appellant and the Authorized Official.

- iii. In reviewing the notice against trespass, the Decisionmaker will utilize the preponderance of the evidence standard to reach the Decisionmaker's determination of the appeal, with the burden of proof on the charging Authorized Official or their representative.
- iv. If no hearing is requested, the Decisionmaker may consider any written submissions as part of their decision. The Decisionmaker shall issue a written decision within ten (10) business days of the hearing or within fifteen (15) business days of the appeal, if no hearing is requested.
- v. All hearings shall be recorded via either video and/or audio platform. Technological failure of the recording platform shall not cause the hearing to be postponed, nor shall it invalidate the outcome of a hearing.
- vi. Either party may invite one representative or observer to the hearing. If the appellant requests to invite witnesses to provide testimony, such request shall be made of the Decisionmaker within two (2) business days of the hearing. The Decisionmaker reserves the right to sequester witnesses.
- vii. The Decisionmaker may exclude any irrelevant, unreliable, or unnecessarily repetitive evidence. Relevant evidence is any verbal testimony or document that tends to prove or disprove the appropriateness of abatement. Reliable evidence is any relevant evidence commonly relied upon by reasonably prudent people in the conduct of their affairs.
- viii. All hearings shall be closed to the public, unless otherwise requested by the appellant when the hearing is requested.

e. *Time Extensions.* The Decisionmaker may extend the time period to hold a hearing or to issue a decision, if the operation of the notice against trespass is stayed or if the appellant consents. The appellant shall have no right to have a hearing rescheduled.

f. *Waiver requests.* An individual who has received a notice against trespass may request a waiver from the issuing Authorized Official (or, in the absence of that official, from another Authorized Official) in order to access the property for which the notice against trespass was issued for purpose of work, residence, access to government services, or the exercise of constitutionally protected activities. All notices against trespass issued under this policy shall conform to the Police Department's First Amendment Assemblies policy related to organized assemblies or demonstrations. If that waiver is denied, an appeal may be made to the Decisionmaker following the process provided in this

Subparagraph (d) of this Paragraph. In addition, in the context of any appeal of a notice against trespass, the Decisionmaker shall also consider any waiver request from the individual appealing.

7. **Enforcement.** Once a notice against trespass has been issued, unless the notice has been stayed by receipt of an appeal or the notice has been overturned by a decision on appeal, a violation of the notice may be enforced pursuant to 13 V.S.A. § 3705 (a criminal violation) or Section 11-18 of the City's Code of Ordinances (a civil violation).

The foregoing procedures are hereby adopted by the City Manager and the City Council of the City of Barre, this 15th day of July 2025 and is effective at the same time as the effective date of Chapter 25 of the City's Code of Ordinances, and shall remain in effect until amended or repealed.