

Trespassing

219.1 PURPOSE

To provide guidelines for conducting trespassing investigations

219.2 COMPLAINT PROCEDURE

1. Make contact with the owner, agent, or tenant of the property.
2. Violator must not have a right to the property.
3. A person NOT ON THE LEASE at a professionally managed apartment can be asked to leave by the tenant or the property manager and then subject arrest if he refuses to leave. A tenant with a written lease cannot grant a boyfriend/girlfriend or anyone else the legal right to residency in the apartment
 - a. A person who shares the rent, but is not on the lease, should be viewed as a tenant rather than a guest.
 - b. Boyfriends/girlfriends and others may attain some legal rights regarding residency in some circumstances in owner occupied homes or where there is an oral or month-to-month lease. Officers should allow the courts to mediate these matters rather than make a probable cause arrest or issue citations on scene. Document the incident and submit the case for review by the City Attorney's Office.
4. Determine if the violator is still present. If so,
 - a. If reasonable suspicion is developed that a person is trespassing, the officer shall conduct an investigation to either confirm or dispel whether a trespass violation is taking place.
 - b. The violator **MUST** be notified by the owner, agent, or tenant that they cannot be on the property or:
 - i. A conspicuously posted "No Trespassing" sign.
 - ii. Valid "No Trespassing" form
 - c. Officers may arrest the violator if they refuse to leave.
 - i. Because the penalty is less than 92 days, **AN ARREST CAN ONLY BE MADE IF THE VIOLATION IS COMMITTED IN THE PRESENCE OF THE OFFICER**
 - ii. It is generally preferred that a case be written or a citation issued instead of a physical arrest. However, if these options are exhausted or otherwise deemed ineffective a physical arrest can be made.
5. If the violator is not present when the officer arrives, or a violation is not committed in the officer's presence, a criminal case will be written if requested by the owner, agent, or tenant of the property.

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6. Even if a suspect leaves when told to do so by an officer, a criminal complaint can still be written if the owner/agent states the violator refused to leave when told to do so by the owner/agent.
7. A “No Trespassing” form can be completed by the owner/agent that would give KDPS authorization to arrest someone if an officer witnesses a violation.
 - (a) The "No Trespassing" form must be completed, signed, and scanned into I-Leads.
 - (b) In order for officers to act as the agent of a property owner/tenant who is not present when the incident occurs, the “No Trespass” form must have been previously completed and filed with the department. A valid/current form must be confirmed prior to officers citing or arresting trespassers while acting as an agent of the property owner/tenant.
 - (c) A “No Trespass” form may be used for the purposes of documenting that persons have been previously banned from a particular property by the owner/tenant. However, prior banning may be established by other factors, including prior documentation by the owner/tenant, prior reports written by the department, the violator’s statements indicating knowledge of the prior ban, etc.
 - (d) The COK Trespass Ordinance (22-7) and the State of Michigan Trespass Statute (MCL 750.552) are enforceable base on probable cause. The Enforcement of the ordinance and/or statute is not solely dependent upon the prior completion of the "No Trespassing” form.

219.3 TRESPASSING AT RADISSON

1. Procedures for trespassing at the Radisson:

- (a) The Radisson, and all Greenleaf Companies properties in the COK, do not utilize the “No Trespassing” form. An agent of the hotel and/or company will be present and, therefore, do not require public safety to act as their agent.
- (b) Officers will write a trespass case on all calls to the Radisson when a violation of the COK Trespass Ordinance has occurred.
- (c) If the violator is present, and officers establish probable cause that the subject is trespassing and/or has been previously banned from the property, officers shall either arrest the violator, cite the violator, or complete a report for review by the City Attorney, and require the violator to leave the property.
- (d) If the violator is not located, then write a criminal case for trespass, panhandling, or a trouble with subject case, depending on the facts.
- (e) Provide security with your case number. Security will assist in providing documentation of prior incidents wherein violators have been banned and/or removed for trespassing, panhandling, etc.

Additional Information: MCL 750.552 / City Ordinance 22-7