

	FREDERICKSBURG POLICE DEPARTMENT DIRECTIVES	
	OPERATIONS	
341.00	APPROVED: <i>Brian F. Layton, Chief of Police</i>	Initiated: 10/01/2007
		Revised: 02/21/2024

TRESPASSING

341.00 – Trespassing – The Fredericksburg Police Department shall facilitate the enforcement of trespassing laws by giving advice and assistance to property owners regarding the required posting of property, the procedure for issuing notice prohibiting trespassing, the process for obtaining a warrant, as well as taking enforcement action for offenses committed in the presence of the officer.

341.01 – Notification Prohibiting Trespassing – The Code of Virginia §18.2-119 requires that, in order for a trespassing offense to occur, a property owner or his agent must give notice to a person that he is forbidden to enter or remain upon a given property. The manner of this notification may be:

- Oral
- In writing
- Posting a conspicuous sign
- Erecting a barrier that would indicate to a reasonable person that the property is not open to the public.

Although oral notification is sufficient, officers should impress upon property owners that written notification provides more substantial evidence in court and serves as the means of entering the notification in the Records Management System (RMS). Officers shall also impress upon the private property owners the importance of maintaining copies of all notices issued along with the following information: As a courtesy, the Fredericksburg Police Department will maintain a record of notices pertaining to private property for three years. It is the sole responsibility of the property owner to inform the department in writing if they would like to amend or withdraw the NFT or request that we maintain the entry for an additional three-year period. Without such notice from the property owner, notice forbidding trespass will remain as entered in the system for three years after which they will be purged.

341.02 – Person is Present – If the person to be prohibited from trespassing is present:

- The officer shall assist the property owner or designee in completing the “Notice Forbidding Trespassing” form.
- The officer shall provide the prohibited person and the property owner or designee with a copy.
- The original shall be forwarded to Communications for entry into RMS.

341.03 – Person is Not Present – If the person to be prohibited from trespassing is not present:

- The officer shall assist the property owner in completing the “Notice Forbidding Trespassing” form.
- The officer shall instruct the property owner or designee to deliver a copy via certified mail to the person to be prohibited.
- The officer shall instruct the property owner or designee that once notification is delivered, forward the Police copy of the form and a copy of the return receipt to the police department for entry into RMS.

341.04 – RMS Entries – When Notice Forbidding Trespass Forms are received in Communications, the document shall be entered into PISTOL in the Name File. In the Pistol Name File the subject must also be alerted as a trespasser by utilizing the Name Alerts function. Fill in all available windows in the Alert field using either free text or the drop-down menus. In the notes field, delineate the business name or residential address, the effective date of notice, and by whom the NFT was authorized as well as the serving officer’s name. This information can then be copied and pasted into the notes field on the face page of the subject’s name file. The form will then be stamped/signed with date and initials of the person entering the information; then filed alphabetically in the NFT file cabinet. Three years from the date of issuance, the NFT will expire at which time the Trespasser alert must be removed from the subject’s record and a note added in the face page note field that the NFT has expired. The expired NFT forms will be kept on file in a separate file in Comsec for reference purposes.

341.05 – Officers Acting as Lawful Agents of Property Owners – City Code 54-22 permits the Chief of Police to accept the designation as a person lawfully in charge of a property, for the purpose of enforcing trespassing laws. Indiscriminate utilization of this designation may tend toward usurping the rights and responsibilities of property owners, as well as unnecessary taxing of police resources. Therefore, the designation shall be restricted to:

- Community policing officers in the context of community policing neighborhoods.
- School resource officers in the context of the educational environment.
- Any supervisor
- Any SPOC assigned to specific neighborhoods

At the discretion of the Chief of Police, this designation may be expanded to other officers in order to address particular problems related to certain properties.

Officers who have been designated to act as a lawful agent of a property owner shall not issue a "Notice Forbidding Trespassing" without prior approval of the property owner or designee unless the person to be prohibited is engaged in a criminal act on or about the designated property. When an officer acting under the authority of City Code 54-22 issues notice without prior approval of the property owner, the reason for the prohibition shall be documented with a police report.

Officers are authorized agents for the City of Fredericksburg and may issue "Notice Forbidding Trespassing" for properties owned by the City of Fredericksburg that are not designated as free and open to the general public. If a city employee requests that a person be prohibited from entering property that is designated as free and open to the general public, officers shall advise the city employee of the procedure for issuing a "Notice Forbidding Trespassing". This does not prohibit officers from enforcing existing ordinances or court orders governing trespassing upon city property that is designated for public use.

Officers employed by a property owner in an off-duty capacity may issue a "Notice Forbidding Trespassing" at the request of the property owner and are not required to document the action with a police report.

341.06 – Enforcement Actions When the Offender is Present – An officer may take the following actions for trespassing violations that occur in the officer's presence:

- Warn
- Summons
- Arrest

To determine probable cause, officers may rely on:

- The presence of barriers
- Posted signs
- Written notification

If a complaining witness is present and expresses a desire to prosecute, or the offender has previously received written notice not to trespass, or the officer has other reason to believe that the property owner desires to prosecute, then the officer shall summons or arrest if probable cause exists.

In cases where the complaining witness is present and method of notification was a barrier or posted sign, but the barrier or posting was not reasonably adequate, the officer may:

- Issue a warning and refer the complaining witness to the magistrate.
- Assist the property owner or designee with issuing a "Notice Forbidding Trespassing" and explain the requirements for properly posting signs.

In cases where the method of notification was a barrier or posted sign and no owner or designee is immediately available, the officer shall weigh the totality of the circumstances to determine whether it is appropriate to warn, summons, or arrest.

341.07 – Enforcement Actions When the Offender is Not Present – In cases where there is a complaint of trespassing, but the offender is no longer present upon the officer's arrival, the officer shall:

- Refer the complaining witness to the magistrate.
- An officer shall not seek a warrant for a trespassing offense on behalf of a property owner unless exigent circumstances make it necessary to immediately obtain a warrant in order to protect persons or property and an authorized agent of the property is not available.

In cases where there is a complaint of trespassing upon property for which the Chief of Police has been designated as a lawful agent, but the offender is no longer present, a school resource officer, community policing officer, or other specifically designated officer may either seek a warrant or refer the complaining witness to the magistrate.

341.08 – Administrative Review – All written and served Notices Forbidding Trespass shall be maintained in the NFT box in communications. Unless written notification is provided notices pertaining to privately owned property will be purged from the system after three years. Copies of all notices scheduled to be purged that pertain to CPO areas will be provided to the CPO Supervisor and such notices that pertain to schools will be provided to the School Resource Officers for review. The CPO Supervisor and School Resource Officers will notify communications in writing of any notices to remain entered for an additional three years.

341.09 – FPD NFT Forms and Private Forms and Letters Issued by non-FPD Personnel – FPD NFT's issued by Fredericksburg Sheriff's Office deputies fall under FPD Directives and shall be changed to "expired" after three years. Enforcement for these notices is the same as for any other FPD NFT.

Non-FPD private property forms from the Bragg Hill area and Olde Greenwich issued by Fredericksburg Sheriff's Office deputies, as well as private letters of trespassing notice from citizens do not expire (unless stated in the letter of notice). Enforcement for these notices require the issuing person to be summoned if the offender is issued a summons for trespassing. These forms will be entered in Pistol with a note designating the documentation as a "private trespassing notice" in which we have a letter or form on file.

All active forms will also be kept on file by an Excel format located in the Communications shared file under the Network places, **the files will be purged weekly**, with a report of those purged sent to the Communications Manager. Only one Comsec Supervisor, or designee, will purge expired NFT's from the system. This Supervisor is appointed by the Communications Manager.