

CITY OF MINNEAPOLIS

Trespass as a tool for behavior enforcement

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Trespass: Private Property

- Trespass from Private Property on the basis of unwanted behavior.
- Two main topics:
 - *What is trespass?
 - *How can you enforce it?



Private Property v. Public Property

- Why is this important?

*Public Property applies constitutional guarantees to travel and pursue life, liberty and happiness.

- *Exceptions are limited*
 - *Time, place and manner restrictions*

*Private Property

- *Limited Exceptions: Claim of Right*



Trespass: Two Most Commonly Used Authorities

*Minnesota Statute §609.605

(**oral** or **written** demands to leave)

*Minneapolis Ordinance Code §385.380

(**sign/poster** – think yellow “Minneapolis No Trespassing” signs)



When possible statutory trespass is preferred authority

- Why? Statutory trespass is an enhanceable crime. What starts as a misdemeanor becomes a gross misdemeanor after two prior convictions.
- Trespass under the City Ordinance is not enhanceable.



Minnesota Statute §609.605

Minn. Stat. §609.605 Subd. 1 (b) (3), “A person is guilty of a misdemeanor if the person **intentionally**...trespasses on the premises of another and, **without claim of right** refuses to depart from the premises on demand of the **lawful possessor**...”



Minnesota Statute §609.605 (cont.)

Minn. Stat. §609.605 Subd. 1 (b) (8), “A person is guilty of a misdemeanor if the person returns to the property within one year...”



Legal Terms: I of III

Intentionally trespasses

- *No Intent = No Crime

- *How do you prove intent?

 - You tell them to leave and they don't.



Legal Terms: II of III

Without **claim of right** refuses to depart/re-enters

- *Private Property & Tenants

- *Guests (Limited – can be revoked)

- *Public Property

 - Conforming Use v. Constitutional Rights

 - Non-discriminatory Purpose

- *Providing Public Services (H.C.M.C.)



Legal Terms: III of III

Demand of the Lawful Possessor

Who?

Owner, Tenant & Agent

Where?

Building and Private Parking Lots

(so long as public access is controlled or restricted and clearly marked)



Minneapolis Ordinance Code §385.380

No person who has received a demand to stay off such land shall reenter it within ninety (90) days from the dates of the demand ...

... without the written permission of the lawful possessor or the agent who provided the demand.

“...trespassing on the land of another...no person shall intentionally trespass on the land of another...without claim of right, refuse to depart therefrom on the demand of the lawful possessor thereof or his agent...”



Minneapolis Ordinance Allows Trespass Enforcement via a SIGN...

- Intent is a provability issue
 - *Defendant knew or should have known about the sign
 - *Document location of the sign and how far from the sign was the defendant. Photograph the location if possible.
- Deterrent factor
- Range? Only the private property covered by the sign.
- More of an “after hours” fix



Sign Enforcement

Contact CPS Rene Allen

First Precinct – 673-5163

- *Overview

- *Affidavit

- *Will Provide Yellow Trespassing Signs



Part II: How to Enforce

- What types of behavior must be present before you can trespass?
 - *It's your property – any reason.
 - *Be reasonable and be willing/able to defend your particular trespass policy
 - *Consistency is key – avoids suggestion of bias



PART II: What do you need to do to enforce

Document the Incident – Identify the behavior

- *What are they doing? Be descriptive.
- *Video is always nice
- *If you have Security do a security report
- *If no security jot down what you see and provide notes to police when they arrive



PART II: What do you need to do to enforce

1. Ask them to leave and tell them they cannot return
 - *Preferably in writing
 - *Preferably for one year
2. If they don't leave – call the police.
3. If they leave before police arrive but they initially refused or they returned after being previously trespassed
 - Generate 311 Report



Trespass Notice Form

YOU ARE HEREBY REQUESTED TO DEPART FROM THIS LAND AND NOT TO RETURN FOR ONE YEAR.

State and local laws (Minn. Stat. § 609.605 and/or Mpls. Ord. § 385.380) provide that no person shall intentionally trespass on the land of another and refuse to depart from that land, without a legal basis, when a demand to do so is made by the lawful possessor or his/her agent. Such demand may be spoken or written. No person who has received a demand to stay off such land shall reenter it within 1 (one) year from the date of the demand without the written permission of the lawful possessor or the agent who provided the demand. Violators may be subject to imprisonment for 90 (ninety) days or to a payment of \$1000, or both.

It shall be noted on this date _____ (month/date/year), you were advised of the above statute. This trespass notice form constitutes a written demand to depart from the premises by the lawful possessor or an agent of the lawful possessor. This demand to depart is due to your disruptive, harassing, threatening, and/or non-conforming behavior.

- ☐ I, the lawful possessor or agent thereof, will complete a security report; therefore, I have not described your conduct on this notice.
- ☐ I, the lawful possessor or agent thereof, will NOT be completing a security report; therefore, I have briefly described your conduct below:

Address of place from which party is trespassed

Name of party being trespassed

Date of birth

Name of person issuing the notice

Signature of party receiving the notice

Note to the Owner/Lawful Possessor:

Make two (2) copies: one copy for the person receiving the notice, one copy for your records. If possible, attach a photo to your copy. Warning is valid for 1 (one) year pursuant to the amendment of Minn. Stat. § 609.605 (enacted 8-1-2005) and/or Mpls. Ord. § 385.380 (enacted 12-10-2005).

For individuals with disabilities:

If you need this material in Braille, large print, computer disk, or cassette tape, call 673-3447. Sign language interpreters available — call 673-3220 or 673-2626 (TTY). Please allow two weeks for accommodation.

Your Role

- Complainant
 - *With a 311 report we can charge cases based solely on security/building reports if all the elements are present (including proper identification of suspect)
- Evidence gathering
 - *Video
 - *Witnesses
 - *Reports
 - *Trespass Form

Trespass notices enhance other crime

- Burglary

*When a person enters a building without consent and commits an additional crime therein, a burglary has occurred

- 4th Degree Burglary – Gross Misdemeanor Crime

*Enters without consent and commits a misdemeanor other than to steal

- 3rd Degree Burglary – Felony Crime

*Enters without consent and steals or commits a felony or gross misdemeanor while inside

Utilize same internal security measures and call 911

Legal Liability and Advice Disclaimer

- The Minneapolis Police Department and the City of Minneapolis do not license and are not responsible for the activity of private citizens or any loss or injury suffered as a part of their activities. Any liability incurred as a result of the private citizen's activities is the responsibility of the individual person.



Legal Advice Disclaimer

- *We are here to help, but I am not your attorney*
- The information provided in this PowerPoint is solely for informational purposes and does not constitute legal advice. As an Assistant Minneapolis City Attorney my sole client is the City of Minneapolis.



Legal Advice Disclaimer

- While I may on occasion suggest or respond to hypothetical fact situations, your situation may differ in important respects from these scenarios, perhaps in ways that are not apparent. My response may be affected by pedagogical, jurisdictional, or other factors that also affect its potential applicability to your situation.



Legal Advice Disclaimer

- Please understand that no attorney-client relationship is formed by communications with me, and please do not send me confidential or privileged information. If you do require legal advice, I encourage you to consult an attorney who is actively engaged in the practice of law and who is admitted to the bar in your jurisdiction

