

# THE CORPORATION OF THE TOWNSHIP OF MATACHEWAN

## BY-LAW NO. 2025-13

### BEING A BY-LAW TO ADMINISTER NOTICES AND OTHER MATTERS UNDER THE TRESPASS TO PROPERTY ACT

**WHEREAS** the Township of Matachewan has to right as an owner and occupier of premises to restrict or prohibit entry to such premises, and the *Trespass to Property Act*, R.S.O. 1990, c. T.21 governs the enforcement of that right;

**WHEREAS** the Council of the Township of Matachewan recognizes its responsibility to exercise its rights in accordance with the *Canadians Charter of Rights and Freedoms*.

**NOW THEREFORE** we, the Council of the Corporation of the Township of Matachewan **ENACTS AS FOLLOWS:**

#### Short Title

1. The short tittle of this By-law is the Trespass By-law.

#### Definitions

2. In this By-law,

“appeal fee” means the fee of \$100 to commence an appeal pursuant to section 10;

“authorized person” means any of the following persons:

- (a) a security guard employed by or under contract with the Township of Matachewan;
- (b) such persons employed by the Township of Matachewan who, as a matter of their regular duties or due to circumstances, are responsible for and have control over the conditions of any Township premises or activities there carried on, or control over persons allowed to enter the Township premises;
- (c) a municipal law enforcement officer;
- (d) a police officer; and
- (e) a senior staff person.

“meeting room” means that part of the a Town premises in which the Council of the Township of Matachewan or one of its Standing Committees is holding a meeting pursuant to the Procedural By-law;

“prohibited conduct” includes:

- (a) contravention of a law of Canada or Ontario or a municipal by-law;
- (b) damage to or vandalism of the Township premises;
- (c) interference with the operation of a Township premises;
- (d) interference with others’ use of a Township premises;
- (e) contravention of a Township of Matachewan policy governing the conduct of the persons entering Township premises;

“senior executive person” means any of the following persons employed by the Township of Matachewan;

- (a) the CAO or designated staff person responsible for corporate security; and

“Township premises” means lands, structures, improvements, or any of them that are owned or occupied by

the Township of Matachewan;

### **Trespass Notice**

3. (1) For the purposes of this By-law, a Trespass Notice means a notice prohibiting entry to one or more Township Premises by a person or group of persons.

### **Oral or Written**

- (2) A Trespass Notice may be given orally or in writing.

### **Confirm Oral in Writing**

- (3) A trespass Notice given orally and prohibiting entry to one or more Township premises for longer than seven days shall be confirmed in writing as soon as is practicable, but the failure to do so does not make the oral notice ineffective.

### **Factors in Giving Trespass Notice**

4. In determining whether to give or extend a Trespass Notice to a person pursuant to this By-law, the Locations where entry is prohibited, and the duration of the prohibition, consideration shall be given to the following factors:
- (a) The feasibility and effectiveness of any warnings to the person or graduated restrictions placed on person;
  - (b) Any operational or staff requirements or limitations;
  - (c) The severity of the harm or potential harm caused by the person's prohibited conduct to staff, members of the public or property;
  - (d) The person's level of ability and circumstances;
  - (e) The history of the person's conduct and interactions on the Township premises;
  - (f) The likelihood of recurrence of the prohibited conduct by the person; and
  - (g) The impact of restrictions or prohibitions on the person.

### **Suspension from Township Premises**

5. An authorized person who has reason to believe that a person has engaged in prohibited conduct may give to the person a Trespass Notice that prohibits entry to one or more Township premises for not more than seven days.

### **Ban from Township Premises**

6. (1) A senior executive person who has reason to believe that a person has engaged in prohibited conduct may give to the person a Trespass Notice that prohibits entry to one or more Township premises for not more than two years.

### **Extension of Suspension**

- (2) A senior executive person may extend the term of a Trespass Notice given pursuant to section 5 to a term of not more than two years by giving to the person notice of the extension.

### **Longer Ban from Township Premises**

7. (1) A senior executive person who has reason to believe that a person has engaged in prohibited conduct may give to the person a Trespass Notice that prohibits entry to one or more Township premises for not more than five years.

### **Extension of Ban**

- (2) A senior executive person may extend the term of the term of the Trespass Notice given or extended pursuant to sections 5 or 6 to a term of not more than five years by giving to the person notice of the extension.

### **Review and Extension**

8. (1) Prior to the termination of a Trespass Notice given or extended pursuant to section 6 or this section, a senior executive person may extend the term of the Trespass Notice for not more than two years by giving the person notice of the extension if the senior executive person has reason to believe that the

person has during term of the Trespass Notice under review:

- (a) Violated the Trespass Notice; or
- (b) Engaged in further or continued prohibited conduct.

#### **Notice of Termination**

(2) If a Trespass Notice is given without a termination date and a senior executive person determines not to extend a Trespass Notice pursuant to subsection (1), the person senior executive person shall promptly advise the person that the Trespass Notice has been terminated.

#### **Revocation**

9. A person who has given a Trespass Notice, or someone to whom they report directly or indirectly, may revoke the Trespass Notice and may impose such conditions respecting the revocation as the person considers appropriate.

#### **Appeal**

10. (1) A person who has received a Trespass Notice or extension of a Trespass Notice with a term of more than one month may appeal the Trespass Notice by giving written notice of the appeal to the Clerk and Paying any appeal fee of \$100 within the three weeks of receiving the Trespass Notice.

#### **Manner of Hearing**

(2) An appeal to subsection (1) shall be heard by an Appeal Officer in a manner appropriate to the circumstances of the person and the prohibited conduct underlying the Trespass Notice as determined by the Appeal Officer.

#### **Notice of Hearing**

(3) The Appeal Officer shall provide notice of date, time and manner of the hearing of the appeal no fewer than seven days prior to the hearing to the person who received the Trespass Notice and to the senior executive person who gave the Trespass Notice under appeal.

#### **Powers on Appeal**

(4) On an appeal pursuant to subsection (1), subject to subsection (5), an Appeal Officer may:

- (a) Revoke the Trespass Notice;
- (b) Shorten the term of the Trespass Notice;
- (c) remove prohibited locations from the Trespass Notice; or
- (d) affirm the Trespass Notice
- (e) refund the appeal fee of \$100.

#### **Failure to Participate or Attend**

(5) If a person who appeals a Trespass Notice fails to participate in or attend the hearing of the appeal as notified pursuant to subsection (3), the Trespass Notice is deemed to be affirmed.

#### **Decision Final**

(6) A decision of an Appeal Officer is final and not subject to review by Council.

#### **Appeal Officer**

(7) For the purposes of this section, subject to subsection (8), an Appeal Officer shall mean any one of the following persons:

- (a) Solicitor

#### **Involvement in Determining Terms**

(8) Despite subsection (7), no person who was involved in the determination of the terms of the Trespass Notice under the appeal shall be the Appeal Officer who hears the appeal.

#### **Meeting Exception**

11. A Trespass Notice is not effective during the period and only to the extent that the Trespass Notice prevents a person from entering remaining in a meeting room provided the person complies with the

following conditions:

- (a) the person notifies the Municipal Clerk of their intention to attend the meeting no later than 24 hours prior to the scheduled start of the meeting;
- (b) the person enters the meeting room no earlier than 15 minutes prior to the scheduled start of the meeting;
- (c) the person remains in the meeting room no longer than 15 minutes after the meeting is adjourned; and
- (d) the person complies with any directions given by the Chair of the meeting respecting conduct at the meeting.

#### **Invitation to Attend**

12. (1) A senior executive person may give to a person who has received a Trespass Notice an Invitation to Attend a Township premises which shall specify the following:

- (a) the purpose for attending at the Township premises;
- (b) the date and time of the approved attendance at the Township premises;
- (c) the address of the Township premises where the person is approved to attend; and
- (d) instructions for who to contact when the person arrives for the approved attendance at the Township premises; and
- (e) that the Trespass Notice remains in effect except for the approved attendance in accordance with the Invitation to Attend.

#### **Effect of Invitation to Attend**

(2) A Trespass Notice is not effective during the period and only to the extent that the Trespass Notice prevents a person from entering or remaining at the Township premises specified in the Invitation to Attend.

#### **Request for Invitation to Attend**

(3) If a person who has received a Trespass Notice needs to enter the Township premises to conduct business with the Township and is prevented from doing so by the Trespass Notice, the person may request an Invitation to Attend from the senior person who gave the person the Trespass Notice, which request shall include the following information:

- (a) the purpose for attending at the Township premises;
- (b) the reasons why attending at the Township premises is necessary; and
- (c) the address of the Township premises where the person wished to attend.

#### **Methods of Giving Notice**

13. (1) A notice given by the Trespass pursuant to this By-law in writing may be given in any of the following ways:

- (a) personally;
- (b) by fax to the recipient's last known fax number;
- (c) by e-mail to the recipient's last known e-mail address; or
- (d) by registered or regular mail or courier or hand delivered addressed to the recipient's last known address.

#### **Deemed Effective**

(2) Notice given in accordance with subsection (1) shall be deemed to be effective:

- (a) on the date it is personally given or delivered by courier or hand delivered;

- (b) on the date on which the fax is sent;
- (c) on the date the e-mail is sent; or
- (d) on the fifth day after the date of mailing by registered or regular mail.

**Conflict**

- 14. Nothing in this By-law limits the authority of any person to give a Trespass Notice granted by any other Township of Matachewan By-law, whether or not the other By-law uses the words “Trespass Notice”.

**General**

- 15. Nothing in this By-law limits the Township’s ability to enforce its rights under the *Trespass to Property Act* any legal means.

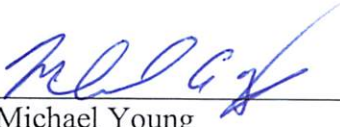
**Severability**

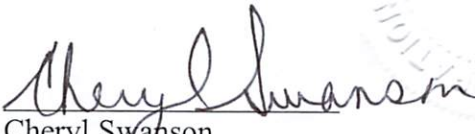
- 16. Should a court of competent jurisdiction declare any part of the whole of any provision of this by-law to be invalid or of no force and effect, the provision or part shall be deemed to have been severed from this by-law, and it is the intention of Council that the remainder of the by-law survive and be applied and enforced in accordance with its terms to the extent possible under law.

**Enactment**

- 17. This By-law comes into force on the day it is passed.

**READ A FIRST, SECOND, THIRD TIME AND FINALLY PASSED** this 23<sup>rd</sup> day of **April, 2025**.

  
Michael Young  
Mayor

  
Cheryl Swanson  
Clerk

