



Apex Police Department General Order



Title Trespassing	Order Number 906-20
Effective Date: August 20, 2020	Amends: 906-14
CALEA Standard:	Rescinds:
Reference: NCGS – 14.159.12 and 14.159.13	Pages: 3
Forms: F906- Trespass Notice	

Trespassing

Purpose

The purpose of this order is to provide standardized guidelines to officers for enforcement of trespass laws under North Carolina General Statutes (NCGS) 14-159.12 and 14.159.13.

Policy

It is the policy of the Apex Police Department to assist in removing unruly or unwanted guests from properties throughout the Town of Apex. The department seeks to achieve this objective through the issuance and enforcement of the Trespass Notice.

Definitions

Authorized Person – Authorized person is the owner, lessee, tenant, resident, or any person who has been given authority over the property by the owner, lessee, tenant, or resident.

Business Complex – A group of businesses on one piece of land, having a single owner, manager, or landlord, and has businesses which are open to the public during specified business hours. It includes, but is not limited to, office complexes, shopping centers, and enclosed shopping malls.

Residential Complex – Any multiple-unit, residential complex. A residential complex includes, but is not limited to, a condominium complex; apartment complex; cottages, duplexes, triplexes or greater; hotel or motel; or mobile home park.

Trespasser—A subject who is not welcomed, wanted, authorized, licensed, or invited, and refuses to leave the premises of an authorized person.

Procedures

Trespass Warnings Generally

1. Trespass warning notices provide documentation that a person has been warned that he/she is not welcome, authorized, licensed, or invited on the premises specified on the warning notice.
2. Although it is not always necessary to issue a written trespass warning, notice must be given to the trespasser. Notice can be by actual communication to the trespasser, either verbally or in writing on Form F906 - *Notice of Trespassing*.
3. The owner of the premises or any other authorized person must communicate to the trespasser that he/she is not allowed to enter or remain on the premises. It is preferred that the trespasser be warned by the owner or authorized person in the presence of an officer. If the trespass warning occurred outside of the officer's presence, the owner or authorized person must provide the department with a written statement indicating that he/she communicated the trespass warning to the trespasser, and include the nature of the warning and identity of person warned.
4. Whenever possible, the officer will positively identify the authorized person and the trespasser for purposes of prosecution. This information will be documented in the officer's narrative of the incident report.
5. It is preferable that a warning be issued while the trespasser is still on the property; however, it is not a requirement for an enforceable warning. It is not necessary for an officer to witness the incident that resulted in the issuance of a trespass warning to the trespasser.
6. Trespass in a single family dwelling, in an individual business, or on the real property thereof:
 - Whenever possible, the officer will obtain positive identification from the trespasser and the authorized person
 - The officer will inform the authorized person that a trespass warning may be issued to the trespasser, or that the trespasser may be arrested. The decision to arrest is solely at the discretion of the officer and must be based only upon probable cause and the circumstances as determined by the officer
7. Trespass in a business complex or shopping complex:
 - **A person can be barred from the premises by the owner or by a person in charge of the premise when the person being barred:**
 - has engaged in conduct that the owner or agent does not permit by other business invitees
 - has committed a crime against the business
 - who has been disorderly inside the business
 - Since these establishments are open to the public, the officer will ensure that the trespasser has been properly warned to leave the premises and refused to do so, or has returned after receiving a previous warning

Trespassing

- The trespasser can be barred only from that area of a complex over which the authorized person has control. An individual business owner can ban a trespasser only from his/her business and its contiguous area/property for which the authorized person has control. The owner/manager of a complex, or his agent, can ban a trespasser from the common areas of the complex
 - When trespassing complaints originate from a business which is open to the public, the officer will make a good faith effort to determine the reasons to ensure that the complaint is not discriminatory or otherwise prohibited by state or federal law
8. Trespass in a residential complex:
- A resident may ban a trespasser from his/her own housing unit
 - An owner/manager, or his/her agent, may ban a trespasser from the common areas of the residential complex and from any residential units with which the subject has no known connection
 - A trespass warning is not enforceable within a specific unit of a residential complex if the trespasser has been invited by a resident of that specific unit

Record Keeping

1. Form F906 - *Notice of Trespassing* will be valid for one year from the date of issuance.
2. Officers will submit completed Forms F906 - *Notice of Trespassing* to the Records personnel, who will review the form for accuracy and then submit the form to the Communications Center Manager.
3. The Communication Center Manager, or his/her designee, will ensure the information from Form F906 - *Notice of Trespassing* is entered into CAD.
4. After one year, the Records Section will notify, by mail, the authorized person who signed Form F906 - *Notice of Trespassing* and the trespasser that the notice has expired.
5. If the Apex Police Department has not been contacted by the authorized person to extend the trespass notice past the initial year, the original notice will be retained in accordance with the North Carolina Records Retention Schedule and the status will be changed to "Rescinded" in the Records Management System (RMS).

Text in "Green" denotes a significant change in policy

BY ORDER OF:



John W. Letteney
Chief of Police