CITY OF DOVER

288 CENTRAL AVENUE
DOVER, NH 03820
WWW.DOVER.NH.GOV
603.516.6000

CITY OF DOVER POLICY GOVERNING NO TRESPASS ORDERS ON PUBLIC PROPERTY

Article 1 — Purpose, Authority, and Construction

I. **Purpose**. This Policy establishes uniform standards and procedures by which the City of Dover may issue, serve, administer, review, modify, rescind, and enforce a No Trespass Order on non-school City property.

II. **Authority.** This Policy shall be administered in accordance with applicable New Hampshire law governing no trespass orders on municipal property see RSA 635:2-a, and with consideration of any applicable federal or state constitutional protections. To the extent anything in this Policy conflicts with RSA 635:2-a, then RSA 635:2-a shall be controlling.

Article 2 — Definitions

I. **Authorized Official**. "Authorized Official" means the City Manager or designee, to whom the City of Dover hereby delegates and designates to authorize issuance of No Trespass Orders on behalf of the City in its proprietary capacity, but only in consultation, coordination, and approval of the Dover Police Department.

II. **Disruptive Conduct.** "Disruptive Conduct" means conduct that materially interferes with, obstructs, or impedes the ordinary and necessary operation of the City of Dover, its personnel, its meetings, its programs, or the public's lawful use of Public Property, or damages Public Property.

III. **Governing Body.** In the case of Public Property covered by this policy, the term "Governing Body" shall mean the Dover City Council.

IV. **No Trespass Order.** "No Trespass Order", or "NTO", means a written directive issued under this Policy that prohibits or restricts an identified individual's entry upon specifically identified Public Property.

V. **Public Property.** "Public Property" means the real property, buildings, facilities, grounds, offices, rooms, parking areas, and other locations owned, leased, occupied, or controlled by the City of Dover.

VI. **Recipient.** "Recipient" means the individual to whom a No Trespass Order is issued.

Article 3 — Grounds for Issuance

I. **Required Basis.** An Authorized Issuing Official may authorize the issuance of a No Trespass Order only upon specific, articulable facts supporting a reasonable determination that the Recipient, while on or in connection with Public Property:

- **A.** Engaged in conduct constituting a criminal offense or violation;
- **B.** Engaged in Disruptive Conduct that materially interfered with the ordinary and necessary operation of the City of Dover or the lawful use of Public Property;
- **C.** Made a specific and objectively credible threat of unlawful conduct directed toward a person or Public Property; or
- **D.** Engaged in other conduct for which applicable law expressly authorizes exclusion from Public Property.

II. **Protected Conduct.** A No Trespass Order shall not be issued solely because a person:

- **A.** Criticized the City of Dover or any board or department thereof, its policies, its employees, or its officials;
- **B.** Submitted a complaint, records request, claim, petition, or appeal;
- **C.** Recorded or observed governmental activity where such activity was otherwise lawful;
- **D.** Attended or sought to attend a public meeting or hearing;
- **E.** Engaged in lawful speech, assembly, religious exercise, political activity, or newsgathering;
- **F.** Declined to provide identification when the person was not otherwise legally required to do so; or
- **G.** Any consideration based on race, color, religion, national origin, sex, gender identity, sexual orientation, age, disability, familial status, political viewpoint, or any other status protected by law.

III. **Consideration of Alternatives.** Before issuing a No Trespass Order, the Authorized Issuing Official shall consider whether the circumstances can reasonably be addressed through a warning, a conduct directive, separation of involved persons, restriction from a particular room or program, an appointment requirement, remote or written access to services, or another less restrictive measure.

Article 4 — Scope and Duration

I. **Reasonable Tailoring.** A No Trespass Order shall reasonably tailored address the conduct supporting its issuance.

II. **Property Description.** The No Trespass Order shall identify each covered location with sufficient specificity to permit the Recipient and enforcing personnel to determine where the Order applies.

III. **Duration.** The No Trespass Order shall state a definite beginning date and expiration date. Its duration shall be based on the seriousness, frequency, recency, and reasonably anticipated recurrence of the conduct. As provided in RSA 635:2-a, an initial No Trespass Order shall not exceed 35 calendar days, but may extended by roll call majority vote of a quorum of the Governing Body as provided below.

IV. **Conditions and Limited Access.** When complete exclusion is unnecessary or would materially impair access to essential public services, the No Trespass Order may establish reasonable conditions, including:

- **A.** Entry by appointment;
- **B.** Entry through a designated entrance or service area;
- **C.** Attendance at a public meeting subject to stated conduct requirements;
- **D.** Communication through a designated employee;
- **E.** Remote, telephone, mail, or electronic access;
- **F.** Entry accompanied by a designated person or law-enforcement officer; or
- **G.** Temporary entry for a specified governmental, electoral, judicial, medical, or emergency purpose.

Article 5 — Written Orders and Supporting Record

I. **Emergency NTO.** An emergency No Trespass Order shall state in writing (see also attached form):

- **A.** The Recipient's name and, when reasonably necessary for identification, a physical description or other nonconfidential identifier;
- **B.** The specific Public Property to which the No Trespass Order applies;
- **C.** The conduct supporting the No Trespass Order, including the date, approximate time, location, and a sufficiently specific factual description;
- **D.** The effective date and expiration date, which shall be up to a maximum 35 calendar days;
- **E.** Any limited-access conditions or exceptions;
- **F.** The Recipient's right to appeal to the Governing Body, the method for filing an appeal, the filing location, and the applicable filing period;
- **G.** Statement that the No Trespass Order remains effective during an appeal;
- **H.** The Recipient's right to appeal the Governing Body's decision to the Superior Court; and
- **I.** The name, title, signature, of the person issuing the No Trespass Order.

II. **Supporting Materials.** The Authorized Issuing Official shall preserve materials reasonably relied upon for authorizing the No Trespass Order, including incident reports, witness statements, photographs, recordings, correspondence, prior warnings, and relevant policies, subject to applicable records-retention and confidentiality requirements.

III. **Method of Service.** The No Trespass Order shall be served by a method reasonably calculated to provide actual notice, including personal delivery, delivery by a law-enforcement officer, trackable mail to the Recipient's last known address, or another lawful method that documents transmission or receipt.

IV. **Refusal of Delivery.** If a Recipient refuses personal delivery, the person attempting service shall document the date, time, location, manner of attempted service, and refusal. A copy may also be sent by another authorized method.

V. **Effective Date.** The No Trespass Order becomes effective immediately upon issuance unless the Order states a later effective date or applicable law requires otherwise.

VI. **Extension of NTO.** The Governing Body may approve an extension of an emergency No Trespass Order by approving the extension by majority vote taken by roll call at a duly noticed public meeting, or at a non-public session if permitted under RSA 91-A and requested by the individual subject to the NTO. After an extension is approved, a new NTO shall issue containing the following (see also attached form):

A. The date of issuance;
B. The specific Public Property to which the No Trespass Order applies;
C. A clear explanation of the conduct supporting the No Trespass Order, including the date, approximate time, location, and a sufficiently specific factual description;
D. The extended duration of the No Trespass Order, not to exceed one year from the initial effective date of the emergency No Tress Order:
E. Any limited-access conditions or exceptions;
F. The Recipient's right to request a hearing to contest the No Trespass Order;
G. Statement that the No Trespass Order remains effective during an appeal;
H. The Recipient's right to appeal the Governing Body's decision to the Superior Court;
I. The name, title, signature, of the authorized representative of the Governing Body issuing the extension of the No Trespass Order; and
J. A copy of the original emergency No Trespass Order, which is incorporated by reference into the extension.

VII. **Method of Service.** The extension of the No Trespass Order shall be served by a method reasonably calculated to provide actual notice, including personal delivery, delivery by a law-enforcement officer, trackable mail to the Recipient's last known address, or another lawful method that documents transmission or receipt.

VIII. **Refusal of Delivery.** If a Recipient refuses personal delivery, the person attempting service shall document the date, time, location, manner of attempted service, and refusal. A copy may also be sent by another authorized method.

Article 6 — Appeal Procedure

I. **Right to Appeal**. A Recipient may appeal the issuance, scope, duration, conditions, or extension of a No Trespass Order by timely submitting the completed appeal form attached hereto.

II. **Filing.** The appeal shall be delivered to the Dover Police Department at the physical address listed in the appeal form.

III. Deadline: An appeal must be filed within ten calendar days from the date of issuance of the NTO or Governing Body approval of the NTO.

IV. Effect During Appeal. The NTO shall remain in effect during the appeal. The Recipient may, for good cause, request a temporary stay or modification of the NTO during the appeal.

V. Appeal Hearing Process. Within the period required by law, the Governing Body shall hold a hearing, if requested, at its next regularly scheduled meeting.

- **A.** The Recipient of the No Trespass Order shall be notified in advance, as soon as reasonably practicable, of the hearing date and location of the hearing before the Governing Body.
- **B.** During the hearing, the recipient of the No Trespass Order shall be provided a meaningful opportunity to present evidence and argument, not to exceed 30 minutes, unless additional time is granted by the Governing Body.
- **C.** The Authorized Official may likewise present evidence and argument, not to exceed 30 minutes, unless additional time is granted by the Governing Body.

VI. Burden of Proof. As with any appeal, the burden of proving error lies on the recipient of the No Trespass Order.

VII. Decision. Following the hearing and submission of all evidence, the Governing Body shall deliberate and, by roll call majority vote of a quorum present, determine the disposition of the appeal. The Governing Body may affirm, rescind, shorten, narrow, modify, or remand the No Trespass Order. The Governing Body shall designate an individual to issue a written decision, supported by findings, and issue written notice, to the extent possible, of its decision to the Recipient of the No Trespass Order, together with notice of the NTO recipient's right to appeal to Superior Court.

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APPEAL OF NO TRESPASS ORDER ON PUBLIC PROPERTY

Submit this form to:

Dover Police Department
46 Chestnut St
Dover, NH 03820

Article 1 — Appellant Information

I. Appellant's Name: _____

II. Mailing Address: _____

III. Telephone: _____

IV. Email: _____

Article 2 — Order Being Appealed

Attach a copy of the No Trespass Order being appealed.

Article 3 — Grounds for Appeal

I. Describe why the No Trespass Order should be rescinded or modified. Identify any facts in the Order that you believe are incorrect or incomplete and explain why. (Attach additional pages as necessary)

_____

_____

_____

_____

II. Describe the exact result you are requesting.

_____

Article 4 — Hearing Requests

I. Hearing Request.

A. ☐ I request a hearing in public.
B. ☐ I request a hearing in non-public, provided applicable law allows same.
C. ☐ I waive a hearing and request determination on this submission alone.

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Article 5 — Filing and Signature

I. Filing Period. This appeal must be filed within ten calendar days from date of issuance or governing body approval of the No Trespass Order.

II. Certification. I certify that the information submitted with this appeal is true and complete to the best of my knowledge. I understand that submitting an appeal does not, by itself, suspend the No Trespass Order unless applicable law or the Appeal Decisionmaker provides otherwise.

Appellant's Signature: _____

Printed Name: _____

Date: _____

DOVER POLICE DEPARTMENT

David A. Terlemezian
Chief of Police

City of Dover No Trespass Order
Dover Police Case #_____

Recipient Name:_____
Recipient Address: _____

This constitutes a No Trespass Order ("NTO") that bars you from:

_____
_____
[Specific Location and any conditions]

You are receiving this NTO because:

_____
_____
_____
_____
[Date(s) and details of precipitating incident(s)]

This NTO was authorized by: _____ [name of public official]

As a result, it is necessary to issue this NTO to protect public safety, prevent substantial disruption of operations, or prevent damage to public property.

This NTO is effectively immediately and lasts for 35 calendar days, but may be extended by vote of the Dover City Council (or Dover School Board, if this concerns school property).

If you believe that this NTO has issued in error, and/or that you should not be subject to it, you may appeal to the Dover City Council (or, if this concerns school property, the Dover School Board) within ten calendar days and request a hearing, using the appeal form attached hereto, which must be completed and timely submitted to the Dover Police Department at 46 Chestnut St, Dover, NH 03820. If you are dissatisfied with the Dover City Council's (or Dover School Board's, if this concerns school property) final decision, then you have the right to appeal to the Superior Court within 30 calendar days, see RSA 635:2-a, VI. For avoidance of doubt, be advised this NTO shall remain in effect during any appeal, unless or until either the Dover City Council (or Dover School Board, if this concerns school property) and/or the Superior Court orders otherwise.

Method of Service:_____
[Personal delivery, email, U.S. mail]

DOVER POLICE DEPARTMENT

David A. Terlemezian
Chief of Police

Date of Service: _____

Issuing Officer Printed Name: _____
EXTENSION OF NO TRESPASS ORDER BY GOVERNING BODY

The date of issuance: _____

The specific Public Property to which the No Trespass Order applies:
_____
_____
_____
_____

Reason for the extended No Trespass Order (including dates, approximate time, location, and factual description of findings):
_____
_____
_____
_____

Duration of the extended No Trespass Order: _____

Special Conditions or Exceptions:
_____
_____
_____
_____

You are hereby notified that you, the Recipient of this extended No Trespass Order, have the right to request a hearing to contest the No Trespass Order. If an appeal form has not previously been provided to you, then you will be provided one upon request to the Dover Police Department. This extended No Trespass Order remains effective during an appeal.

You are hereby notified that you, the Recipient of this extended No Trespass Order, have the right to appeal the Governing Body's final decision to the Superior Court within thirty calendar days, see RSA 635:2-a, VI.

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Issued by:

_____
Name
Title: _____

Attached is the original emergency No Trespass Order, which is incorporated by reference into the extension.