

CHARLOTTESVILLE POLICE DEPARTMENT



Note: This directive is for internal use only and does not enlarge an officer’s liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Charlottesville Police Department and then only in a non-judicial administrative setting.

Type of Directive: GENERAL ORDER	Number: 10-02
TRESPASSING ENFORCEMENT	Revised: December 2, 2020
VLEPSC Number: Non-Standard	Manual Number: 536.08
	Effective Date: 12/02/20
Authorization: Chief R.M. Brackney <i>Rm Brackney</i>	Follow-up Date: Annually

I. POLICY

It is the policy of the Charlottesville Police Department to accept designations from private property owners, identifying the Charlottesville Police Department (“CPD”) as “a person lawfully in charge of property” for the purpose of prohibiting an individual from trespassing on private property, after having been forbidden to do so by the designating private property owner. Every such designation must be in writing and on file with CPD.

II. PURPOSE

The purpose of this policy is to provide members of the Charlottesville Police Department with guidelines for enforcing trespass violations that occur on private property. Adherence by police personnel to predetermined guidelines for the enforcement of trespass violations on private property are necessary to protect property and serve the interests of public safety and welfare.

III. DEFINITIONS AND ENABLING LEGISLATION

A. Private Property Trespass Enforcement Letter - A written document signed by an owner, lessee, custodian or other person lawfully in charge of property identified in such document, designating the City of Charlottesville Police Department as a “person lawfully in charge” of that property.

B. Relevant Virginia Code Sections – Code of Virginia §18.2-119 and §15.2-1717.1.

1. **§18.2-119 (Trespass after having been forbidden to do so; penalties).**

If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian, or the agent of any such person, or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted by or at the direction of such persons or the agent of any such person or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or portion or area thereof at a place or places where it or they may be reasonably seen, or if

any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to §§ [16.1-253](#), [16.1-253.1](#), [16.1-253.4](#), [16.1-278.2](#) through [16.1-278.6](#), [16.1-278.8](#), [16.1-278.14](#), [16.1-278.15](#), [16.1-279.1](#), [19.2-152.8](#), [19.2-152.9](#) or § [19.2-152.10](#) or an ex parte order issued pursuant to § [20-103](#), and after having been served with such order, he shall be guilty of a Class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of §§ [18.2-132](#) through [18.2-136](#).

C. Relevant City Code provisions

Pursuant to authority granted within Virginia Code § 15.2-1717.1, the City Council has enacted an ordinance allowing the designation of the Police Department as a “person lawfully in charge of property” for the purpose of forbidding individuals from going or remaining on private property.

1. **City Code, Section 20-11 (Designation of police to enforce trespass violations).**

The chief of police may accept a designation by the owner, lessee, custodian, or person lawfully in charge as those terms are used in Va. Code §18.2-119, of real property located within the city, designating the Charlottesville Police Department as a "person lawfully in charge of the property" for the purpose of forbidding another to go or remain upon the lands, buildings or premises of the owner as specified in the designation. Any such designation shall be in writing and shall be kept on file with the Charlottesville Police Department. The chief of police shall promulgate rules, regulations and/or a procedure for the acceptance and use of such designation.

2. **City Code, Sec. 17-25 (Trespass, generally)**—this local ordinance is similar to the provisions of Va. Code 18.2-119, referenced above in Paragraph III.B.

IV. PROCEDURE

A. Request for Police to Accept Designation to act as a “Person Lawfully in Charge”

1. The owner, lessee, custodian or other person in charge of private property may, in writing, designate the Charlottesville Police Department as a “*person lawfully in charge of the property*” for the purpose of forbidding another to go or remain upon the lands, buildings or premises specified in the written designation. For purposes of this policy, the designation is referred to as a “Private Property Trespass Enforcement Letter”, or simply as a “designation”.

2. Upon receipt of a Private Property Trespass Enforcement Letter, the letter will then be sent through the chain of command to the Field Operations Division Commander. The Commander will review the request. CPD will give consideration to accepting these designations when there is a significant public safety interest that will be served.

a. The Field Operations Commander may accept or reject any proposed designation, in their sole discretion. If approved, the letter signed by the Field Operations Commander will be given to Information Management Services to be kept on file.

b. If rejected by the Field Operations Commander, the proposed designation will

be marked “Rejected” and returned to the requesting party.

3. The original signed copy of the Private Property Trespass Enforcement Letter will be maintained on file in Information Management Services. A copy of each designation accepted and signed by the Field Operations Commander will be:

a. Forwarded to the Police Records Specialists for entry into the records management system. Once entered into the system, the record will indicate an alert on the property that is the subject of the designation, with a confirmation that a designation letter is on file; and

b. Maintained on file within Information Management Services (IMS), with the IMS Supervisor serving as the custodian of the original signed record, and electronic copies thereof. The IMS Supervisor will ensure that (i) the designation letters are verified annually through follow-up contact with the person(s) who signed each original designation letter, and (ii) that the Police RMS system is updated. ~~Records Specialists are notified regarding any changes that are made as a result of the annual verification process, or at other times.~~

B. Police Enforcement of Trespass Violations

1. *Arrests (summons)*—CPD officers may arrest individuals for criminal trespass in violation of Va. Code 18.2-119 (or City Code 17-25), by issuing a summons for a Class 1 misdemeanor violation. **This law enforcement authority exists independently of whether CPD has been designated as a person lawfully in charge of the premises on which the trespass has occurred.**

a. **Arrests must be based on probable cause that an individual, without authority of law, has gone upon, or remains upon, land, a building, or other premises, after having been forbidden to do so by an owner, lessee, custodian, or other person lawfully in charge of such premises. See Va. Code 18.2-119.**

c. Examples of circumstances that may provide a basis for probable cause include: no-trespass signs posted in accordance with Va. Code §18.2-119, and an officer’s knowledge that a Court Order has been issued to prohibit an individual’s presence on the premises (such as a protective order issued by a JDR Court).

2. Officers responding to calls for service on private property will follow this procedure for investigating trespassing incidents:

a. determine whether or not a Private Property Trespass Enforcement Letter is on file with CPD. The Police Records Specialist in Information Management Services will be able to check the property in question through the records management system and alert the officer if an enforcement letter is on file.

c. if a Private Property Trespass Enforcement Letter is on file with CPD, then an officer may forbid an individual from going upon or remaining upon such premises, orally or in writing.