

## **Frequently Asked Questions: Trespassing Problems/Trespass Authorization Letter**

### **Q: What is a “criminal” trespass?**

**A:** A criminal trespass is a misdemeanor offense under the Penal Code. A criminal trespass, put simply, is a willful, unauthorized entry of another’s property combined with the willful intent to trespass on the property. The criminal intent to trespass must exist in order to cite or arrest the party. Penal Code 602 is the main statute on trespass to real property and specifies in detail various crimes of injuring, destroying, or carrying away particular kinds of property, such as timber or fixtures, soil or stone, signs, gates, or fences.

### **Q: Does the law of criminal trespass apply in situations where there is a labor or a political protest?**

**A:** No.

### **Q: What involvement does the San Diego County District Attorney have in this process?**

**A:** The District Attorney is the chief criminal prosecutor for the City of Chula Vista and prosecutes all public offenses (i.e. felonies and misdemeanors) contained in the Penal Code. The trespass citation is a misdemeanor citation and the District Attorney will decide whether or not to prosecute the matter depending on the circumstances. The Chula Vista Police Department does not have any control over whether the District Attorney will or will not issue and prosecute a criminal charge with regard to this issue. The cited party, unless there are other corresponding crimes at the time of the citation, will merely be issued a non-custodial citation and will not be physically taken into custody.

### **Q: What is the purpose of the Trespass Authorization Letter? How does it help with the problem of unwanted people on my property?**

**A:** The letter authorizes police officers to issue a citation, effect an arrest, or warn any person present on the property without lawful business during the specified 6-month period. The letter gives officers the power to enforce trespassing laws at the property when you are not there. Generally, without other corresponding criminal activity at the time of contact, the Trespass Authorization Letter will be enforced by citation and not a physical arrest of the offending party.

### **Q: Why is the form only valid for 12 months?**

**A:** California Penal Code Section 602(o) only allows a property owner to file a trespassing arrest authorization letter for a period not to exceed 12 months. The letter can be renewed every year as summarized in the next response.

### **Q: How do I renew the Trespass Authorization Letter? Will I receive a reminder when it's time to renew the authorization?**

**A:** You can renew the letter through the City’s website every year. The City will send you a

reminder via e-mail when it is time to renew the letter. However, the requesting party is responsible for renewing the letter information online when requested to do so. If there is no renewal the authorization will lapse.

**Q: The Trespass Authorization Letter asks me to initial the section saying that we have posted the property. What specifically should the sign say?**

**A: For properties that are NOT open to the general public at any time** (typically, this means undeveloped land and vacant commercial properties) [click here](#) for a sample sign specific to this type of property. **For commercial properties that are closed during certain hours,** [click here](#) for a sample sign specific to this type of property. **For vacant residential properties,** [click here](#) for a sample sign specific to this type of property.

**Q: Who is responsible for posting the property?**

**A:** The property owner or his/her representative is responsible for posting the property. It is recommended, although not required, that you document the posting by taking time-stamped pictures of the signs you posted.

**Q: Why is it important to include all of my emergency contact information on the Trespass Authorization Letter?**

**A:** Because it is *essential* that the officer be able to contact you at the time he detains the trespassing party in order to verify that a trespass has occurred. If the officer is not able to contact you at the time of the trespass, which could occur at any time of the day or night, a citation may not be issued depending on the type of property. In a residential property situation the officer may request that you respond to the scene of the trespass in order to be able to issue a citation.

**Q: Why is the Owner's/Agent's date of birth required in the form?**

**A:** Because it is important for the Chula Vista Police Department to accurately monitor who is requesting a trespass authorization form. The Chula Vista Police Department will keep all private information confidential, and use it for police and prosecution purposes only. Should prosecution be pursued your information may need to be shared with the District Attorney and the Superior Court Judge.

**Q: What can I do if there is a specific person who continually causes problems at my property?**

**A:** The Trespass Authorization Letter is not designed for use against a specific party – it is intended to be enforced against any and every trespassing person.

**Q: I still have questions - who should I contact?**

**A:** Please contact [Angela Gaines](#).

**Q: Can I print out the online form and send it to you by mail?**

**A:** No, to facilitate automatic e-mail reminders for letter renewals, we are only accepting online form submissions.

**Q: How can I get a copy of the completed form for my records?**

**A:** You will be able to download a copy of the form once you have completed it.

**Q: Who do I contact if I have technical difficulties with the online form?**

**A:** Please contact [Angela Gaines](#).