

NO TRESPASSING

By Attorney Michael H. Wald

"Do Not Trespass -- Violators Will Be Prosecuted" signs are posted on many fences in the country, on houses, in parking lots, on buildings, on schools, etc. Do these signs mean anything or are they just idle threats? What happens if you decide to ignore these warnings? Can violators really be taken to court?

Trespassing may be a crime, but it is also a civil wrong. Trespass to land is the correct name of this wrong which involves an interference with someone else's property. The property owner is the one who has exclusive possession and legally recognized rights to the property.

To be guilty of civil trespass, a person does not have to do any actual harm to the other's property, just interfering with the property is sufficient. Interfering can be entering onto the land, or causing something to enter onto the land, remaining on the land, or letting something remain on the land.

The most common type of trespassing is just to enter the property, such as walking on the land or hunting on the land. But you can be a trespasser without setting foot on the property. If you throw rocks at a house or a bullet goes across the land, you are letting something enter onto the land. Another form of trespass is called continuing trespass. This is where the offending object remains on someone else's property. Some examples of this are leaving your parked car in a private lot, building a fence on part of your neighbor's property, or not removing a tree that has fallen on your neighbor's property. If you have permission to enter onto the land, you can become guilty of trespassing if you commit a wrongful act on the property after entering. Suppose you are watering your neighbor's lawn while he is on vacation and you trample his flower bed, this is also a form of

trespassing.

Once the landowner's rights have been violated, the trespasser can be sued. The trespasser is liable for any damages to the property. These include any actual damages that have occurred and any that are a result of the trespass. Suppose you remove a fence, you are responsible for the fence, but also for any consequences of its removal, such as the loss of livestock. If no actual damages have occurred, the owner can still take you to court just for the principle involved and be awarded nominal damages which establish that you were wrong.

Even though you are liable for damages, the property owner is not liable if you are injured on his property. Once you enter his property, you take on this risk, whether it be slipping on your neighbor's sidewalk or injury from the owner trying to get you to leave. The owner has the right to use "reasonable" force to remove you from his land. As long as this force does not include great bodily injury, death, or setting traps with intent to injure, the owner has the right to protect his property. In a recent Florida case, a man set a fatal trap for a burglar. In that case, the grand jury refused to find a criminal wrongdoing.

There are few circumstances where trespass to land would be justifiable and these could be used as a defense. If you would cross the property of another in order to protect a life or property in an emergency, this would be a defense against trespassing. For instance, you may be able to protect someone being mugged or help at a traffic accident, but the only way to assist would be to enter another's property. Another defense would exist if you could show that the person claiming to be the landowner is not the real owner. Don't take chances. Next time you see a sign warning against trespassing, think about it. The landowner may be serious, and you may end up in court.

30-14-6. No trespassing notice; sign contents; posting; requirement; prescribing a penalty for wrongful posting of public lands.

A. The owner, lessee or person lawfully in possession of real property in New Mexico, except property owned by the state or federal government, desiring to prevent trespass or entry onto the real property shall post notices parallel to and along the exterior boundaries of the property to be posted, at each roadway or other way of access in conspicuous places, and if the property is not fenced, such notices shall be posted every five hundred feet along the exterior boundaries of such land.

B. The notices posted shall prohibit all persons from trespassing or entering upon the property, without permission of the owner, lessee, person in lawful possession or his agent. The notices shall:

- (1) be printed legibly in English;
- (2) be at least one hundred forty-four square inches in size;
- (3) contain the name and address of the person under whose authority the property is posted or the name and address of the person who is authorized to grant permission to enter the property;
- (4) be placed at each roadway or apparent way of access onto the property, in addition to the posting of the boundaries; and
- (5) where applicable, state any specific prohibition that the posting is directed against, such as "no trespassing," "no hunting," "no fishing," "no digging" or any other specific prohibition.

C. Any person who posts public lands contrary to state or federal law or regulation [regulation] is guilty of a petty misdemeanor.

NO TRESPASSING

**INCLUDING ALL PUBLIC OFFICIALS
OR AGENTS THEREOF:**

This is to put you on notice that the Owner or Tenant of this property requires that all Public Officials abide by the provisions of the Supreme Law of
the Land

**THE CONSTITUTION
of the
UNITED STATES OF AMERICA**

Bill of Rights

Amendment Two:"the right of the people to keep and bear Arms shall not be infringed"

Amendment Four:"the right of the people to be secure in their person, houses, papers, and effects, against unreasonable searches and seizures shall not be violated:

ANY OFFICER OF PERSON WITHOUT CONSENT OF THE OWNER OR TENANT WHO ATTEMPTS TO ENTER THIS PROPERTY WITHOUT A
PROPER WARRANT AS DESCRIBED BELOW WILL BE TREATED AS ANY OTHER INTRUDER WOULD ATTEMPTING TO TRESPASS, EXTORT,
INJURE, OPPRESS, THREATEN, INTIMIDATE, OR IN ANY OTHER WAY JEOPARDIZE THE RIGHTS OF THE OWNERS OR TENANTS OF THIS
PROPERTY

*THE UNDERSIGNED WILL THEREFORE REFUSE TO PERMIT ANY SEARCH, AUDIT ASSESSMENT, OR INSPECTION WHATSOEVER OF THIS
PROPERTY WITHOUT THE PRESENTATION OF A PROPER WARRANT DULY SIGNED AS DESCRIBED BY CONSTITUTIONAL AMENDMENT IV*

*"AND NO WARRANT SHALL ISSUE BUT UPON PROBABLE CAUSE SUPPORTED BY OATH OR AFFIRMATION AND PARTICULARLY DESCRIBING THE
PLACE TO BE SEARCHED AND THE PERSON OR THINGS TO BE SEIZED"*

VIOLATORS MAY NOT BE FINED MORE THAN \$10,000 OR IMPRISONED NOT MORE THAN TEN YEARS OR BOTH USC TITLE 18 SEC 241 & 242

SIGNED _____

Dated: _____ Phone: _____

WARNING! Private Property

Persons entering this property must hold contract or license with the owner granting ingress with indemnity and carry on-person proper identification to verify such contract or license.

NO TRESPASSING

You are hereby notified that the owner of this property requires all public officials, agents, or person(s) to abide by the “supreme law of the land”. The Constitution for the United States of America and ratified Amendments thereto.

Owner will refuse to permit and hereby refuses to permit any access, search, audit, assessment, or inspection whatsoever without the presentation of a warrant prepared as prescribed by Constitutional Amendment IV and XVI and ‘particularly describing the place to be searched and the persons or things to be seized.’ Alleged zoning or code non-compliances do not establish Constitutional reasons for entering this property. Violators will be trespassers will be treated as intruders.

VIOLATORS TAKE NOTICE

Any official, agent, or person(s) entering this property without the consent of the owner without proper warrant as described above, will be treated As an intruder attempting to trespass, extort, injure, threaten, harass, intimidate or otherwise jeopardize the rights of the life of the Owner of this property.

Violators will be fined according to the amount allowed by law.

NO TRESPASSING!

**THE CONSTITUTION
of the
State of Washington**

SECTION 3 PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property, without due process of law.

ARTICLE 1, SECTION 7- 9A.52.080: Criminal trespass in the second degree

SECTION 7 INVASION OF PRIVATE AFFAIRS OR HOME PROHIBITED. No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

SECTION 13 HABEAS CORPUS. The privilege of the writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety requires it.

SECTION 14 EXCESSIVE BAIL, FINES AND PUNISHMENTS. Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.

WARNING! PRIVATE PROPERTY

PERSONS ENTERING THIS PROPERTY MUST HOLD CONTRACT OR LICENSE WITH THE OWNER OR TENANT GRANTING INGRESS WITH INDEMNITY AND CARRY ON PERSON PROPER IDENTIFICATION TO VERIFY SUCH CONTRACT OR LICENSE.

NO TRESPASS

YOU ARE HEREBY NOTIFIED THAT THE OWNER OR TENANT OF THIS PROPERTY REQUIRES ALL PUBLIC OFFICIALS, AGENTS, OR PERSON(S) TO ABIDE BY "THE SUPREME LAW OF THE LAND", THE CONSTITUTION FOR THE UNITED STATES OF AMERICA, AND THE RATIFIED AMENDMENTS THERETO.

OWNER OR TENANT WILL REFUSE TO PERMIT, AND HEREBY REFUSES TO PERMIT, ANY ACCESS, SEARCH, AUDIT, ASSESSMENT OR INSPECTION WHATSOEVER WITHOUT THE PRESENTATION OF A WARRANT, PREPARED AS PRESCRIBED BY CONSTITUTIONAL AMENDMENT IV AND XVI, AND "PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEIZED". ALLEGED ZONING OR CODE NON-COMPLIANCES DO NOT ESTABLISH CONSTITUTIONAL REASONS FOR ENTERING THIS PROPERTY. VIOLATORS WILL BE TREATED AS INTRUDERS.

VIOLATORS TAKE NOTICE

ANY OFFICIAL, AGENT, OR PERSON(S) ENTERING THIS PROPERTY WITHOUT CONSENT OF THE OWNER OR TENANT, WITHOUT PROPER WARRANT AS DESCRIBED ABOVE, WILL BE TREATED AS AN INTRUDER ATTEMPTING TO TRESPASS, EXTORT, INJURE, THREATEN, HARASS, INTIMIDATE, OR OTHERWISE JEOPARDIZE THE RIGHTS AND THE LIFE OF THE OWNER OR TENANT OF THIS PROPERTY.

VIOLATORS MAY BE FINED NOT MORE THAN \$10,000, IMPRISONED NOT MORE THAN TEN YEARS, OR BOTH. Public law June 25, 1948, ch. 645, 62 Stat. 696; Apr. 11, 1968. Public Law 90-284, title I, Sec. 103 (a), 82 Stat. 75, Nov. 18, 1988, Public Law 100-690, title VII, Sec. 7018(a), (b)(1), 102 Stat. 4396

A PERSON IS GUILTY OF CRIMINAL PROCESS IF HE/SHE KNOWINGLY ENTERS UNLAWFULLY UPON THIS PROPERTY, AND COULD PLACE HIS/HER LIFE AT RISK.

WARNING! PRIVATE PROPERTY

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Something the world should know about log homes since 1967

NO TRESPASSING

INCLUDING ALL PUBLIC OFFICIALS OR AGENTS THEREOF

This is to put you on notice that the owner or tenant of this property requires that all Public Officials and all other persons abide by provisions of the Supreme Law of the Land

The Constitution of the United States of America

"... the right of the people to keep and bear arms,
shall not be infringed . . ." Bill of Rights, Article II

"The right of the people to be secure in their
persons, houses, papers and effects against
unreasonable searches and seizures shall
not be violated . . ." Bill of Rights, Article IV

"And no warrant shall issue, except upon probable
cause, supported by oath or affirmation, and
particularly describing the place to be searched
and the person or things to be seized."

Bill of Rights, Article IV

Any officer, agent, official or person without the consent of the owner or tenant, who attempts to enter this property without a proper warrant as described above, will be treated as any other intruder would, when attempting to trespass, extort, injure, oppress, threaten, harass, intimidate or in any other way jeopardize the rights of the owners or tenants of this property.

Violators may be fined not more than \$10,000 or imprisoned not more than ten years, or both.

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