



Housing Authority of the City of Wilmington, NC
LIMITED ACCESS AND TRESPASS BANNING POLICY

I. Purpose

The WHA communities are for the exclusive use and enjoyment of WHA residents, members of their Households, and legitimate guests and visitors unless they are banned for prior reasons. All other persons will be regarded as trespassers subject to prosecution as allowed by state or municipal ordinance. The purpose of this Trespass Banning Policy is to limit access and use of WHA property to the persons who have no legal or legitimate reason to be on the premises. A person who does not have a specific legitimate purpose to be on WHA property shall not be permitted on the property.

II. Application

This Trespass Banning Policy applies to all public housing developments owned and/or managed by WHA, and applies retrospectively and prospectively to all tenants living in units within those developments.

III. Legitimate Purpose

The following persons are presumed to have a specific legitimate purpose on WHA property and are not subject to banning from WHA property, unless otherwise mandated by WHA policy or by law:

- A. Invited guests of WHA tenants who are accessing the development within the scope of their invitation, and who have not committed any of the acts enumerated in Section 4 below
- B. WHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official PHA or law enforcement business on PHA property; and
- C. Persons, not aforementioned, who are on WHA property with WHA express permission and who are not otherwise violating WHA policy or any state or federal law on the property.

IV. Non-Legitimate Purpose

The following persons are presumed not to have a specific legitimate purpose on WHA property and are subject to temporary or permanent banning from WHA property:

- A. All persons who are not WHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official WHA or law enforcement business, and also are not WHA tenants or the invited guest of WHA tenants unless that person has been banned.
- B. All persons who commit the following acts on WHA property, whether or not they are included in the categories set forth in Section 3, above:
 - 1. Assault, battery, arson, robbery, vandalism, malicious destruction of property, disturbing the peace, murder, manslaughter, rape, sexual assault, prostitution and/or the solicitation thereof,

abduction, kidnapping, illegal gambling, harassment, stalking, violation of protective, restraining, or peace order, domestic violence, the attempt to commit any of the aforementioned crimes, or engaging in any other physical behavior that injures, or threatens to injure; the health of WHA tenants, employees, commissioners, representatives, agents, contractors, any law enforcement official, or other member of the public;

2. Engaging in any illegal behavior involving illegal drugs and/or illegal drug paraphernalia, including, but not limited to, possession and/or distribution of said drugs and/or paraphernalia;
3. Engaging in any illegal behavior involving firearms or other deadly weapon, including, but not limited to unlawful possession, concealment or use of a said firearm or deadly weapon;
4. Public urination, public nuisance, and other public display of disorderly, lewd or lascivious conduct on WHA property;
5. Damaging, destroying, vandalizing, defacing, or otherwise reducing the value of the real and/or personal property of the WHA, its employees, commissioners, representatives, agents, tenants, contractors, any law enforcement official, or other member of the public;
6. Remaining in an area for no obvious reason, e.g., hanging around on WHA property without legitimate business;
7. Significant (including but not limited to repeated violations, bulk trash, dumping, etc.) littering on WHA property;
8. Engaging in any illegal behavior involving automobiles or other vehicles including, but not limited to, reckless driving, destruction, and theft;
9. Engaging in any apparent gang-related activity on or within one (1) mile of WHA property;
10. Theft of the personal property of the WHA, or WHA tenants and others;
11. Allowing a member of the Household, who is a minor child, to violate a curfew imposed by WHA.
12. Any other behavior that substantially interferes with the right, comfort, convenience and/or safe and peaceful enjoyment of WHA property by WHA employees, commissioners, representatives, agents, tenants, contractors, any law enforcement official, or other member of the public.

The WHA specifically reserves the right to add or delete from the acts set forth above in this as appropriate.

V. Exclusion and Banning

Only the following designated persons are authorized to enforce this Policy by issuing a notice of banning pursuant to the terms and conditions of this Policy: WHA Community and Property Managers; Safety Security Coordinator; WHA contracted private security contractors; and New Hanover County law enforcement officers.

Any person who desires access to any WHA development, including any person located on or in the buildings, walk ways, grasses, playgrounds, parking lots, drives and other common areas of any WHA

development, will be required by any law enforcement or WHA personnel to identify himself or herself by showing appropriate written identification (WHA ID badge), and to prove a specific legitimate purpose to be on the development premises when asked to do so. All other non-tenants determined to be without a specific legitimate purpose for being on the WHA property shall be asked to leave the property immediately, and may be issued a written notice of banning" in accordance with these procedures.

A. The following persons are automatically banned or excluded from the WHA premises:

1. **Terminated Criminal Tenant.** Any tenant who engages in drug-related and/or violent criminal activity, and whose Lease is terminated by the WHA through the issuance of a "Notice of Lease Termination" letter; and
2. **Non-tenant Without a Specific Purpose for Being on WHA premises.** Any non-tenant (a person other than those listed on a WHA Lease) *with no specific legitimate purpose* for being on WHA property are not permitted on WHA property. Whether a non-tenant has a specific legitimate purpose to be on any particular WHA property shall be determined by the WHA, as defined by the terms of this Trespass Banning Policy and the WHA's procedures.

B. **The "Notice of Banning".** Banned persons shall be provided written notice of their banning through the issuance of a notice of banning in accordance with procedures outlined herein. The Notice shall advise that he/she will be trespassing if he/she returns to WHA property; will state the reasons with specificity for denying entry. The duration of the ban is within the discretion of the WHA as more fully set forth in Section 13. The WHA shall enforce this Trespass Banning Policy uniformly and in accordance with procedures outlined herein. In the event that a Notice form is not readily available at the time of the banning, a verbal notification will be given and an attempt will be made to provide written Notice within 3 business days of the issuing of the verbal Notice. Said written Notice shall be mailed to the address previously provided to WHA or law enforcement personnel at the time of the issuance of the verbal Notice.

C. **Tenant Notice.** In the event the banned person is listed as a Household member on a WHA Lease, or is a friend, guest, or otherwise connected with a WHA tenant, the WHA shall provide a copy of the Notice of Banning to the Head of Household advising the Head of Household that said Household member has been banned from WHA property. Said Notice shall state the duration of the ban, as well as the possible penalties (including eviction of the entire family) if the Head of Household and/or any other family member fails to cooperate with the terms of the Notice. Tenant must get actual notice for each person banned prior to lease violation.

D. **Emergencies.** In extraordinary circumstances involving an emergency or other unusual circumstance, for good cause shown, the WHA Safety and Security Coordinator, in his/her discretion, may decide to dispense with any or all notice requirements of the "Limited Access and Trespass Banning Policy".

VI. The "Banned Persons" List

In accordance with its procedures, the WHA, in cooperation with law enforcement, shall maintain and monthly update the list of persons who have been banned from WHA property. Copies of the "Banned Persons" list shall be posted conspicuously for public viewing at the management office or other appropriate place within each housing community, and all residents shall be informed of the location of the list. All pertinent WHA staff shall receive copies of the initial and updated list, as shall law enforcement. Any modifications to the ban list should be listed in the ban list.

VII. Enforcement/Law Enforcement

The WHA shall enforce this "Limited Access and Trespass Banning Policy" consistent with the criminal trespass provisions of N.C. G.S. 14- 159. 13 and in accordance with WHA procedures. The WHA will maintain a Memorandum of Understanding ("MOU") with the Wilmington Police Department ("WPD") regarding each party's responsibilities with regard to the enforcement of this Trespass Banning Policy. The MOU, among other things, authorizes Law Enforcement officers to make inquiries of persons on WHA property and to inform any person without specific legitimate business that he/she may be subject to arrest for trespassing if they remain on WHA property. Pursuant to N.C.G.S. 14-159.13, any sworn officer with local law enforcement shall be authorized to arrest and remove all banned persons who have returned to WHA property in violation of this Trespass Banning Policy.

VIII. Right of Appeal Immediately After Banning Notice Issuance.

A person being banned or any interested resident shall have the right to appeal the issuance of a "Notice of Banning". The appeal must be made to the Safety Security Coordinator within ten (10) business days of the issuance of the Notice. The Safety Security Coordinator shall have the discretion to continue the Notice, lift the Notice immediately, or maintain the Notice for a pre-determined period of time.

The banned person has the right to submit a written appeal to the Supervisor of the Safety Security Coordinator within twenty (20) business days of the issuance of the Notice. The decision of the supervisor is final. No further appeals may be made until eligible for an Appeal Hearing.

IV. Training and Accountability

The WHA shall train all housing managers and other pertinent personnel, and the law enforcement officers on the proper implementation of this Trespass Banning Policy so that the Trespass Banning Policy is carried out thoroughly and uniformly. The WHA Safety Security Coordinator will coordinate the training and oversee all banning pursuant to this Trespass Banning Policy. The Safety Security Coordinator shall maintain records of all banned persons, "Trespass Banning Policy" notices issued, and the "Banned Persons" list, and shall purge names from the "Banned Persons" list as appropriate. When required, the Safety Security Coordinator shall appear in court proceedings related to the enforcement of issued bans. To the extent practicable, "read only" copies of the "Banned Persons" list shall be maintained and disseminated among WHA staff and law enforcement via computer, with appropriate confidentiality safeguards in place.

X. Communication and Advertisement

The WHA shall develop and disseminate appropriate brochures, flyers, "no trespassing" signage, and/or other methods to communicate the tenants of this Trespass Banning Policy to WHA residents and non-residents who enter WHA property.

XI. Tenant Leases

A tenant's assistance in the violation of this Banning Policy by another tenant, or by a non-resident, shall constitute a material Lease violation, the penalty of which may include eviction. This Policy shall be incorporated, through appropriate language, in all tenant Leases or addendums, in accordance with the notice and comment procedures and other legal requirements.

XII. No Waiver of Rights or Options

Nothing in this Trespass Banning Policy is intended to waive, replace, supersede, or otherwise limit the WHA's ability to exercise any and all other rights or options available to it by law. A decision by any employee of the WHA in one circumstance relating to one person shall not constitute a waiver of the WHA's rights or options under this Trespass Banning Policy relating to another person.

XIII. Removal from the "Banned Persons" List

Persons who are banned from the WHA property, and who do not appeal the "Notice of Banning" within the specified ten (10) business days described above in this Policy, will be banned from WHA properties. Unless otherwise stated, said person will remain banned from WHA properties until a written, request for appeal is submitted and the ban is lifted in accordance with the procedures outlined below. For those persons who are banned from the WHA property and who do appeal the Notice within ten (10) business days, those persons will continue to be considered to be persons who are banned from the WHA property until such time as the Notice is overturned upon appeal.

A person on the Trespass List is eligible to request an Appeal Hearing based on the following criteria.

If placed on the Trespass List for Public Nuisance, Hinder and Delay, Verbal Confrontation, or Suspicion of criminal activity, a written request for an Appeal Hearing may be submitted six (6) months from the date of placement on the Trespass List.

All other acts deemed harmful to the WHA and its residents shall require a banned person to wait eighteen (18) months before being eligible to submit a written request for an Appeal Hearing. These acts include but are not limited to:

Physical confrontation
Willful damage to property in excess of \$500
Illegal prescription drug or marijuana use
Violence or threat of violence
Possession of illegal narcotics
Sale of a controlled substance
Use or possession of cocaine, heroin or methamphetamine
Illegal use or possession of a fire arm

A person is placed on the Trespass List for life for the manufacturing of methamphetamine or is required to submit to lifetime registration as a sex offender under HUD regulations.

If a person is found to be eligible to have an appeal hearing based upon the criteria above, then a "Notice of Banning Appeal Hearing" with a neutral third party person will be scheduled by the Safety Security Coordinator. It will be the responsibility of the person requesting that the Notice of Banning be lifted to furnish the hearing officer with any documentation related to his/her appeal that may reflect favorably on their appeal. WHA employees, WHA residents, and law enforcement officers may be called to testify on the behalf of the WHA to present evidence on why the Notice should stay in effect. If the hearing panel decides that there is no good cause to continue the Notice and that the banned individual no longer represents a danger to WHA communities, then the Notice of Banning can be lifted immediately and a letter issued to the banned person allowing him/her entry onto WHA properties without criminal reprisals.

XIV. Purging of the "Banned Persons" List

The WHA may purge the "Banned Persons" list at any time at which the WHA determines that purging the list would enable the WHA to better administer this "Limited Access and Trespass Banning Policy."

XV. Door-To-Door Sales Solicitations

Under no circumstances does the WHA allow non-WHA resident door-to-door sales solicitations in person, or through the use of notices or flyers on WHA property. Persons who attempt to conduct door-to-door sales at WHA housing developments are subject to the WHA's Limited Access and Trespass Banning Policy as described above.

If a WHA resident desires to distribute other types of notices or flyers in his or her development, the resident must provide the development's property manager with a copy of the proposed notice or flyer and obtain advance approval of his or her property manager. A resident distributing such notices or flyers must ensure that the notices or flyers do not become litter or otherwise disrupt the peaceful use and enjoyment of the development by other residents.