

**BAN AND CRIMINAL TRESPASS POLICY**

**WILLIAMSON HOUSING AUTHORITY  
WILLIAMSON, WEST VIRGINIA**

**Adopted by Board of Commissioners**

**Resolution No.:** \_\_\_\_\_

**Date of Adoption:** \_\_\_\_\_

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**Authorized Use by the Williamson Housing Authority**

## **THE WILLIAMSON HOUSING AUTHORITY BAN AND CRIMINAL TRESPASS POLICY**

### **PURPOSE**

The Williamson Housing Authority (hereinafter referred to as the “PHA”) seeks to minimize, reduce, and prevent the “potential” and “real” criminal, drug, and nuisance activity which threatens the peace and tranquility of the PHA’s public housing property, developments, and neighborhoods.

Recognizing the seriousness of illegal criminal and/or drug activity, including actual or threats of domestic violence, dating violence, sexual assault, stalking, loitering, vandalism, curfew, and unlawful weapons violations, the PHA adopts the following Ban and Criminal Trespass Policy (hereinafter referred to as the “Policy”) in an effort to enhance the safety, health, and well-being of its residents and its property.

The following Policy is to be implemented and enforced under the laws and statutes of the State of West Virginia, consistent with the criminal trespass provisions of WV Code. §61-3B-3, and the City of Williamson. The PHA will refer any and all violators of this Policy to the appropriate legal authorities for prosecution to the fullest extent of the law. Residents are encouraged and authorized to refer any and all violators of this Policy to the PHA or local law enforcement for appropriate action.

### **APPLICATION**

This Policy applies to all properties owned, leased, and maintained by the PHA. PHA property includes, but is not limited to, the buildings, recreational areas within the PHA communities, the common areas, grounds, and parking lots within the properties owned by PHA. PHA property is private property. Signs have been posted on PHA property that clearly identifies the property as private property.

### **PROCEDURE**

#### **A. Authorized Persons**

PHA properties are restricted to PHA residents, their household members, authorized visitors and guests as well as PHA staff and commissioners, and those with a legitimate purpose for being on PHA property.

The following persons are presumed to have a legitimate purpose for being on PHA property:

- Resident Advisory Board/Council/Organization, including invitees
- PHA contractors and their employees

- Persons employed by or carrying out official business with the PHA or its management agents at the PHA property (including HUD personnel or HUD contractors)
- Organizations with permission from the PHA to use a portion of the PHA property for a specified purpose, including invitees of the organization
- Service providers
- Mail and parcel delivery persons
- Persons with express permission from the PHA to be on PHA property and while engaged in lawful behavior
- Law enforcement officers and legal personnel who are engaging in activities directly related to civil or criminal matters, such as process servers, investigators, attorneys, or other persons legitimately on PHA property for such purposes
- Emergency fire, police, medical, and utility personnel

**All other persons not authorized to be on PHA property are subject to being deemed as trespassing and may be arrested and prosecuted for criminal trespass.**

#### **B. Persons Subject to Ban and Criminal Trespass**

The following persons may be prohibited from entering all or specific PHA properties:

- Any non-resident who has no legal right to be on the property and is not an invited guest of a resident.
- A person who has engaged in activities that threaten the health, safety and right to peaceful enjoyment of PHA residents, household members, authorized visitors/guest, PHA staff or agents.
- Any person whose residency has been terminated by the PHA

The PHA shall cause a written Ban and Criminal Trespass Notice (hereinafter referred to as the “Notice”), in the manner required by State law, to be issued to any person who violates any provision of this Policy. The Notice shall state that the person is banned from any and/or all PHA-owned property and may not enter the property for any purpose, including visiting residents on the property or in their unit under penalty of being prosecuted for criminal trespass under the law.

Notices may be issued to any non-resident, including but not limited to the following:

- A person who engages in any criminal activity that threatens the health, safety, and right to peaceful enjoyment of the property by others.
- Persons who engage in, or are suspected of engaging in, drug-related activity on or off PHA property, including within PHA units or on property adjacent to the PHA.
- Persons who engage in criminal activity in which a deadly weapon or dangerous instrument is used, or threatened to be used, and which results in physical injury or intimidation of another person.

- Persons who engage in any illegal behavior involving firearms or other deadly weapon, including but not limited to unlawful possession, concealment, or use of a firearm or deadly weapon.
- Persons who engage in criminal activity of a non-violent nature on PHA property.
- Persons who engage in verbal or physical confrontation with PHA personnel, commissioners, representatives, agents, contractors, residents, household members, authorized guests/visitors, and law enforcement, fire, medical or utility personnel while on PHA property.
- Persons who engage in any violent or threatened violence against any PHA commissioners, personnel, representatives, agents, contractors, residents, household members, authorized guest/visitors, and law enforcement, fire, medical, or utility personnel while on PHA property. This includes domestic violence, dating violence, sexual assault, and/or stalking as described in the Violence Against Women Act of 2013.
- Persons who damage, destroy, vandalize, deface, or otherwise reduce the value of the real and/or personal property of the PHA, PHA personnel, commissioners, or other persons by malicious acts.
- Persons who engage in any illegal behavior involving automobiles or other vehicles, including but not limited to reckless driving, joy riding, destruction, and theft on or adjacent to PHA property.
- Persons who cause a disturbance, commit a public nuisance, display public intoxication, or exhibit disorderly, lewd, or lascivious conduct toward legal residents of the PHA or on PHA property that interferes with the residents' right to peaceful enjoyment of the premises.
- Persons who loiter on PHA property.
- Persons who cause significant littering on PHA property.
- Persons who engage in any gang-related activity, including but not limited to grouping, or using hand signals, gestures, and/or clothing to show gang affiliation for the purpose of threatening or intimidating rival gangs, PHA personnel, commissioners, representatives, agents, contractors, residents, household members, authorized guests/visitors, and law enforcement, fire, medical, or utility personnel.
- Persons who are living in a PHA-owned or managed rental unit in violation of a tenant lease agreement.

## **BAN AND CRIMINAL TRESPASS NOTIFICATION**

The Notice shall be issued to such a person by the Executive Director. A copy of the Notice issued will be kept on file at the PHA, with the police department, and in other appropriate locations. The PHA will maintain a listing of all persons that have been placed on a "Banned and Criminal Trespass List." Names of persons on the Banned and Criminal Trespass List will be conspicuously posted in all PHA office(s) and properties.

The PHA shall make reasonable effort to include the following information regarding the person that has been banned:

- Properties from which the person is banned;
- The full name and address of the person banned;
- A photograph, if available, of the person banned;
- Description of the person banned (date of birth, height, weight, other identification);
- The date the Notice was issued to the person banned;
- The PHA property, development, or location in which the incident occurred;
- The date and time in which the incident occurred;
- The reason(s) why the person was banned; and
- The signature of PHA personnel or law enforcement personnel who issued the Notice.

Any person who has received a Notice to leave and/or refrain from entering any PHA property under provisions of this Policy and who returns to any PHA property shall be subjected to immediate arrest if observed on any PHA property by any PHA personnel, law enforcement personnel, or a tenant who files a complaint with the police department.

The Banned and Criminal Trespass List will be updated as necessary. Documentation (i.e., police reports, newspaper articles, complaints, notes, etc.) supporting the basis for declaring an individual as an unwanted visitor/occupant to any PHA property shall be maintained and kept in a confidential file.

### **Residents Subject to Ban and Criminal Trespass**

If the banned person is a household member on a PHA lease or guest/visitor of a PHA resident, the PHA shall provide a copy of the Notice to the head of household. The head of household shall be advised that a member of his/her household or guest/visitor has been issued a Notice from any and/or all PHA properties. The head of household shall be advised of the date the Notice was issued, duration of the ban, the cause for the ban and the penalties (including eviction of the entire household) if the banned household member or guest/visitor violates any provisions of the Notice.

During a lease termination proceeding initiated by the PHA, the resident, household members, and guests/visitors may be banned from all PHA property except for the resident's unit and PHA community in which the resident resides, as determined by the PHA. At the conclusion of the lease termination proceeding, the PHA will determine if the resident and/or household members should be banned from all PHA Property.

Dependent upon circumstances, a person may be issued a Notice restricting him/her from specific properties while allowing him/her to enter the property where he/she lives.

**BANNED AND CRIMINAL TRESPASS PERIOD**

The PHA has developed an Offense Group which determines the banned and criminal trespass period. The Notice will remain in effect dependent on the Offense Group beginning on the date of service or attempted service of the Notice.

**Offense Group 1:** Persons banned under Offense Group 1 are permanently banned from all PHA property.

<b><u>Offense Group 1</u></b>	<b><u>Ban Period</u></b>
Sex offense subject to lifetime registration	Lifetime
Manufacture or production of Methamphetamine on the premises of federally assisted housing	Lifetime
Murder, sexual assault, or child molestation	Lifetime
Fraud	Lifetime
Robbery, theft, larceny, assault, domestic violence, dating violence, stalking or arson	Lifetime
Violence Against Women Act (VAWA) offenses	Lifetime
Any activity involving the use or threatened use of a deadly weapon or instrument	Lifetime
Persons who vandalize, deface, damage or destroy any property of the PHA or PHA personnel in access of \$100	Lifetime

**Offense Group 2:** Persons who are banned under Offense Group 2 are persons whose offenses include but are not limited to: possession, use, or distribution of illegal drugs or drug paraphernalia, robbery, theft, larceny, burglary, assault, domestic violence, dating violence, stalking, arson, and repeated violations of PHA regulations and rules.

<b><u>Offense Group 2</u></b>	<b><u>Ban Period</u></b>
Drug-related activity on or off any PHA property	5 years

Threat to the health, safety, and right to peaceful enjoyment of residents or PHA personnel 5 years

**Offense Group 3:** Persons who are banned under Offense Group 3 are persons whose offenses include but are not limited to: loitering, public nuisance, drunkenness/public intoxication, disturbance of the peace, fighting, vandalism, and repeated violations of PHA regulations and rules.

<b><u>Offense Group 3</u></b>	<b><u>Ban Period</u></b>
Habitual loitering or littering	1 year
Verbal or physical confrontation	1 year
Public nuisance or intoxication on PHA property	1 year
Damage to property of less than \$100	1 year
Violence or the threat of violence	2 years

A person who has been issued a Notice for a reason other than drug-related offenses, violent criminal activity, manufacture and production of methamphetamine on the premises of federally assisted housing, murder, sexual assault, any activity involving the use or threatened use of a deadly weapon, or persons who vandalize, deface, damage or destroy any property of the PHA or PHA personnel in excess of \$100, or being on the lifetime registered sex offender registry may request in writing that the Notice be rescinded after complying with the Ban for at least one year

**TEMPORARY LIFT OF BAN AND CRIMINAL TRESPASS NOTICE**

In promotion of family unification and in extenuating circumstances for good cause, the Executive Director may permit a temporary lift of the Notice for the banned person to have access to specific PHA properties under restrictive visitation conditions. An example of an extenuating circumstance is: a banned person desiring to visit his/her child or ailing family member who resides in a PHA property.

Persons banned from PHA properties may submit a written request for a temporary lift of the Notice to the Executive Director.

- The written request shall state the specific property and time period during which the banned person is seeking access and the reason for the request of the temporary lift, including any documentation of a request for reasonable accommodations.

- A temporary lift shall be for a period as determined reasonable under the circumstances by the Executive Director.
- Any banned person who commits a subsequent offense on any PHA property during a period of a temporary lift shall be prohibited from requesting additional requests for temporary lifts during the remaining term of the Notice.
- A banned person may be granted only two (2) temporary lifts during any Notice period.
- The Executive Director shall review the request for a temporary lift and respond in writing within ten (10) days of the date of the request.

If approved, the banned person will be permitted access only to the specific PHA property during hours designated by the Executive Director and must check in and out with PHA personnel designated by the Executive Director as a condition of the temporary lift of the Notice.

### **APPEAL PROCESS**

The banned person may request a meeting to appeal the PHA's Ban and Criminal Trespass Notice.

A request for an appeal of the PHA's determination must be submitted to the Executive Director within ten (10) days following issuance of the Notice. The PHA will provide the banned person with the date, time, and place of the meeting within ten (10) days of the receipt of the appeal request. Should the banned person fail to appear at the meeting, the determination of the PHA shall be final.

The Executive Director will review each appeal and conduct the meeting. Prior to the meeting, the banned person shall provide the PHA:

- A current certified copy of the banned person's criminal history;
- Verification of the banned person's residence for the past 12 months; and
- Any relevant documents supporting the appeal.

The banned person may bring a representative (at his/her own expense) and/or relevant witnesses to the meeting.

The Executive Director will make the final determination which will be provided to the banned person in writing within ten (10) days of the date of the meeting. If the Executive Director decides to remove the banned person from the Banned and Criminal Trespass List, he/she must also decide whether to remove the banned person immediately or after a specific probationary period that he/she determines.



A copy of the final determination will also be delivered to the Property Manager of the development where the offensive activity occurred, to other PHA properties, to law enforcement personnel and to the resident head of household if necessary.

**REMOVAL FROM THE BANNED AND CRIMINAL TRESPASS LIST**

The Executive Director, in consultation with law enforcement, is the only PHA personnel with the authority to remove a banned person from the Banned and Criminal Trespass List and/or rescind a Ban and Criminal Trespass Notice.

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## **NOTICE**

**The Nelrod Company has made its best efforts to comply with regulations, laws, and Federal/local policies. The Nelrod Company does not offer advice on legal matters or render legal opinions. We recommend that this policy be reviewed by the Housing Authority's general counsel and/or attorney prior to approval by the Board of Commissioners.**

**The Nelrod Company is not responsible for any changes made to these policies by any party other than The Nelrod Company.**