

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

PURPOSE

The Housing Authority of LaSalle County (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 Illinois, consistent with the criminal trespass provisions of 720 ILCS 5/21-5, LaSalle County, and the City with jurisdiction. The PHA will refer any violators of this Policy to the appropriate legal authorities for prosecution. Residents are encouraged and authorized to refer any 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 are posted on PHA property that clearly state "No Trespassing Anytime" and warning that "Violators Will be Prosecuted."

PROCEDURE

1) 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:

- 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 Board Commissioners
- 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

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

- 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 to State Supported land.

2) 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 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

3) Ban and Criminal Trespass Policy

- 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

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

- 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*”
- 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

4) BAN AND CRIMINAL TRESPASS NOTIFICATION

The Notice shall be issued to a banned person by PHA staff, and served or mailed by PHA staff or law enforcement personnel. A copy of the Notice issued will be kept on file at the PHA, provided to the police department having jurisdiction, and in other appropriate locations. The PHA will maintain a listing of all persons that have been placed on a "**Ban List**." Names of persons on the Ban List will be conspicuously posted at all PHA AMP (Asset Management Project) office(s) and the PHA Website located at: www.halc.org.

5) BAN NOTICE

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

1. Properties from which the person is banned
2. The full name and address of the person banned (at the time the Notice is issued)
3. Date of Birth of the person banned
4. The date the Notice was issued or served to the person banned
5. The reason(s) why the person was banned
6. The signature of PHA 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

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

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.

6) BAN LIST

- The Ban 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 file at the AMP Office that issued the ban
- The AMP office located in Ottawa will be responsible for updating and maintaining the PHA Ban List, which will include both monthly and annual reviews of ban time periods
- Persons banned under offense groups 2-5 who have not committed additional offenses, and whose ban period has expired, will no longer be subject to ban and will have their name removed from the ban list
- Persons banned under offense groups 2-5 who have committed additional offenses may have their ban period extended. In such cases the PHA will issue, and mail or serve, a new ban letter to the person

7) 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 have been issued a Notice from any 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 Property Manager 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.

8) BANNED AND CRIMINAL TRESPASS TIME PERIODS

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

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

Offense Group 1: Persons banned under Offense Group 1 are permanently banned from all PHA property. The Offense Group 1 Ban Period is **Permanent/Lifetime**.

- Sex offense subject to Lifetime registration
- Manufacture or production of Methamphetamine on the premises of federally assisted housing
- Murder, sexual assault, or child molestation on the premises of federally assisted housing
- Persons convicted of violent crime(s), such as but not limited to, assault or battery upon a PHA employee, commissioner, or agent of the PHA.

Offense Group 2: Persons who are banned under Offense Group 2 are persons whose offenses include but are not limited to: selling 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. Offense Group 2 Ban Period is 10 years.

- Drug-related activity on or off any PHA property other than use or possession
- Any activity involving the use or threatened use of a deadly weapon or instrument
- Threat to the health, safety, and right to peaceful enjoyment of residents, PHA agents or personnel

Offense Group 3: Persons who are banned under Offense Group 3 are persons whose offenses include but are not limited to: fighting, vandalism, threats to safety made against PHA staff, agents, residents, and commissioners. The Offense Group 3 Ban Period is 3 years.

- Persons who vandalize, deface, damage or destroy any property of the PHA or PHA personnel in excess of \$100
- Violent crimes, fighting, repeat offenders of PHA regulations & rules
- The threat of violence made against PHA staff, agents, contractors, residents, or commissioners

Offense Group 4: Persons banned under Offense Group 4 are persons whose offenses include but are not limited to: loitering, public nuisance, drunkenness/public intoxication, disturbance of the peace, and repeated violations of PHA regulations and rules. The Offense Group 4 Ban Period is 1 year.

- Habitual loitering or littering
- Persons who engage in use or possession of illegal drugs or paraphernalia on or near PHA property
- Verbal or physical confrontation
- Public nuisance or intoxication on PHA property
- Damage to property of less than \$100

Offense Group 5: Limited to Sex Offenders currently subject to a registration requirement – 1 year or the length of time equal to the registration requirement, whichever is greater.

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

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, 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. The PHA will review the criminal history of the person requesting the ban rescission and may also consider any other acts or conduct of the person before making a decision.

9) TEMPORARY LIFT OF BAN AND CRIMINAL TRESPASS NOTICE

In promotion of family unification and in *extenuating circumstances for good cause*, the PHA 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 Property Manager who manages the property they are requesting to visit.

1. The written request shall state the specific property, the time period during which the banned person is seeking access to the property, and the reason for the request of the temporary lift, including any documentation of a request for reasonable accommodations or that relates to the protections of the “Violence Against Women Act.”
2. A temporary lift shall be for a period as determined reasonable under the circumstances by the PHA.
3. 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.
4. A banned person may be granted only two (2) temporary lifts during any Notice period.
5. The Property Manager shall review the request for a temporary lift and respond in writing within ten (10) business 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 Property Manager and must check in and out with PHA personnel designated by the Property Manager as a condition of the temporary lift of the Notice.

Denial of Temporary Lift of Ban Request

If a temporary lift of ban is denied by the Property Manager, the banned person may appeal to the Director of Property Management. If the Director of Property Management upholds denial of the request, a final appeal may be made by submitting the request in writing to the Executive Director. Decisions of the Executive Director are final.

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

10) APPEAL PROCESS – NOTICE OF BAN

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 Property Manager of the AMP office that issued the Notice within ten (10) business 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) business 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 Property Manager 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 Property Manager will make a determination, which will be provided, to the banned person in writing within ten (10) business days of the date of the meeting. If the Property Manager decides to remove the banned person from the Ban List, he/she must also decide whether to remove the banned person immediately or after a specific probationary period that he/she determines.

The banned person may appeal the Property Manager's decision by sending a written request to the Director of Property Management within (10) business days of the Property Manager's written determination. The Director of Property Management will review the Property Manager's determination by reviewing the documents and/or testimony presented to and used by the Property Manager in making their determination.

If the Director of Property Management upholds the determination made by the Property Manager the banned person may make a third and final appeal by sending a written request to the Executive Director within (10) business days of the reviewed written determination.

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, as well as to law enforcement personnel and to the resident head of household as needed.

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

Appendix A: Illinois Compiled Statutes (720 ILCS 5/21-5)- Criminal Trespass to State-supported Land

(720 ILCS 5/21-5) (from Ch. 38, par. 21-5)

Sec. 21-5. Criminal trespass to State supported land.

(a) A person commits criminal trespass to State supported land when he or she enters upon land supported in whole or in part with State funds, or federal funds administered or granted through State agencies or any building on the land, after receiving, prior to the entry, notice from the State or its representative that the entry is forbidden, or remains upon the land or in the building after receiving notice from the State or its representative to depart, and who thereby interferes with another person's lawful use or enjoyment of the building or land.

A person has received notice from the State within the meaning of this subsection if he or she has been notified personally, either orally or in writing, or if a printed or written notice forbidding entry to him or her or a group of which he or she is a part, has been conspicuously posted or exhibited at the main entrance to the land or the forbidden part thereof.

(a-5) A person commits criminal trespass to State supported land when he or she enters upon a right of way, including facilities and improvements thereon, owned, leased, or otherwise used by a public body or district organized under the Metropolitan Transit Authority Act, the Local Mass Transit District Act, or the Regional Transportation Authority Act, after receiving, prior to the entry, notice from the public body or district, or its representative, that the entry is forbidden, or the person remains upon the right of way after receiving notice from the public body or district, or its representative, to depart, and in either of these instances intends to compromise public safety by causing a delay in transit service lasting more than 15 minutes or destroying property.

A person has received notice from the public body or district within the meaning of this subsection if he or she has been notified personally, either orally or in writing, or if a printed or written notice forbidding entry to him or her has been conspicuously posted or exhibited at any point of entrance to the right of way or the forbidden part of the right of way.

As used in this subsection (a-5), "right of way" has the meaning ascribed to it in Section 18c-7502 of the Illinois Vehicle Code.

(b) A person commits criminal trespass to State supported land when he or she enters upon land supported in whole or in part with State funds, or federal funds administered or granted through State agencies or any building on the land by presenting false documents or falsely representing his or her identity orally to the State or its representative in order to obtain permission from the State or its representative to enter the building or land; or remains upon the land or in the building by presenting false documents or falsely representing his or her identity orally to the State or its representative in order to remain upon the land or in the building, and who thereby interferes with another person's lawful use or enjoyment of the building or land.

This subsection does not apply to a peace officer or other official of a unit of government who enters upon land supported in whole or in part with State funds, or federal funds administered or granted through State agencies or any building on the land in the performance of his or her official duties.

(c) Sentence. Criminal trespass to State supported land is a Class A misdemeanor, except a violation of subsection (a-5) of this Section is a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation.

(Source: P.A. 97-1108, eff. 1-1-13; 98-748, eff. 1-1-15.)

The Housing Authority of LaSalle County Ban and Criminal Trespass Policy

Appendix B: Trespass Signage example(s):

