

**THE HENDERSONVILLE HOUSING AUTHORITY
BAN POLICY AND APPEALS PROCEDURE**

I. PURPOSE:

Pursuant to the authority set forth in federal and state law, this policy and procedure is adopted to establish, implement, and enforce a written policy and procedure to ban persons from properties owned or managed by the Hendersonville Housing Authority (hereafter “HHA”), which persons threaten the safety, health or right to peaceful enjoyment of residents, visitors or guests of residents, or HHA employees or agents on properties owned or managed by HHA or HHA staff. The Board of Commissioners of HHA finds and declares that drug-related activities and crimes of violence have occurred on properties owned or managed by HHA which have threatened and may continue to threaten the safety, health, and right to peaceful enjoyment of residents, visitors or guests of residents and HHA employees and agents.

II. SCOPE:

By its adoption of this policy and procedure, the Board of Commissioners of HHA hereby delegates enforcement of this policy and procedure to its Community Safety Team. The Community Safety Team shall consist of a Community Safety Team leader to be appointed by the Executive Director of HHA, Office Staff Personnel, and the Hendersonville Police Officers assigned to HHA. Any member of the Community Safety Team may consult with law enforcement officers to implement and enforce this policy and procedure. Other persons and/or departments may be consulted to insure consistent application of policy and procedure.

III. GENERAL POLICY:

Residents are required to abide by the terms and conditions of their lease. Residents have the responsibility to insure that their household members and their guests or visitors comply with the terms and conditions of the lease. If it is determined that a resident, household member, or visitor or guest of a resident or another person poses a threat to the safety, health or right to peaceful enjoyment of residents, household members, or visitors or guests of residents or HHA employees or agents, any member of the Community Safety Team may investigate and coordinate compliance and enforcement efforts.

IV. WHAT CONSTITUTES BEING BANNED:

The following persons based upon circumstances described hereinafter, may be Banned from properties owned or managed by HHA:

A. A Visitor/Guest of a resident may be banned from property owned or managed by HHA, if:

1. he/she is charged with or convicted of a drug-related crime or other proscribed crime; or

2. there is competent, material and substantial evidence that he/she is engaged in an activity or activities which would constitute a drug-related crime or other proscribed crime; or
3. he/she is engaged in any other activity which threatens the health or safety of residents, household members, visitors or guests of residents or HHA employees or agents or which threatens the right of a resident to peaceful enjoyment of his/her tenancy; or
4. he/she is engaged in any activity which obstructs or interferes with the performance of the duties of any HHA employee or agent.

5. A person who damages, destroys, vandalizes, defaces, or otherwise reduces the value of the real and/or personal property of HHA, its employees, commissioners, representatives, agents, residents, visitors and guests, contractors, any law enforcement official, or other member of the public while on property owned or controlled HHA.

6. A person who engages in any gang-related activity, including, but not limited to, or using hand signals, gestures, and/or clothing to show gang affiliation for the purpose of threatening or intimidating rival gangs, HHA residents, visitors and guests, HHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official HHA or law enforcement business.

7. No one may enter the property at any time unless he or she is:

- A resident or household member whose name is on a dwelling unit for a unit in the property
- An employee or agent of HHA; or
- A guest or visitor of a resident, household member or HHA.

B. Non-resident is someone who is not a resident, household member or a visitor or guest of a resident of property owned or managed by HHA, or who is not on the property to conduct legitimate business with a resident or household member or on behalf of HHA. Such persons may be banned from all property owned or managed by HHA, if:

1. he/she is charged with or convicted of a drug-related crime or other proscribed crime; or
2. there is competent, material and substantial evidence that he/she is engaged in an activity or activities which would constitute a drug-related crime or other proscribed crime; or

3. he/she is engaged in any other activity which threatens the health and safety of residents, household members, visitors or guests of residents or HHA employees or agents or which threatens the right of a resident to peaceful enjoyment of his/her tenancy; or
4. he/she is engaged in any activity which obstructs or interferes with the performance of the duties of any HHA employee or agent.

V. DRUG-RELATED CRIMES AND OTHER PROSCRIBED CRIMES:

A. Drug-Related Crimes:

The illegal manufacture, sale, or delivery, or the possession with intent to manufacture, sell or deliver, or the possession or use of a controlled substance, as controlled substance is defined and listed in Article 5 of Chapter 90 of the North Carolina General Statutes.

B. Other Proscribed Crimes:

Murder, manslaughter, rape, sexual offense, statutory rape, assault, kidnapping, abduction, malicious injury or damage by use of explosive or incendiary device or material, burglary, breaking or entering, arson or other burnings, larceny, robbery, domestic criminal trespass, sexual exploitation of a minor, cyberstalking, prostitution, solicitation of prostitution, loitering for the purpose of engaging in prostitution, offenses against the public peace, gambling, concealment of a deadly weapon without a permit, or public nuisance or any attempt to commit any of the above-listed crimes or aiding in or abetting the above-listed crimes, as such crimes are defined in the North Carolina General Statutes.

VI. AUTHORIZATION:

Any member of the Community Safety Team is authorized to recommend the banning of persons from properties owned or managed by HHA.

The Community Safety Team Leader and the Hendersonville Police Officers assigned to HHA are authorized to ban persons from all property owned or managed by HHA.

VII. BANNING PROCEDURE:

A. The Hendersonville Police Officers assigned to HHA are authorized to ban offenders on-site at the occurrence of an infraction. The ban slip is submitted to the Community Safety Team Leader for approval.

B. A copy of the ban slip is given to the person being banned on-site and a copy of the ban slip is delivered to any resident with whom the banned individual is known to associate. If the person is a household member or a visitor/guest of a resident, notice shall also be provided to the resident. The notice shall

state the reason for the person being banned from property owned or managed by HHA. The notice shall state that the person will be subject to arrest for trespassing if they do not adhere to the ban notification.

- C. The name of the person banned will be added to the Ban List maintained by the Community Safety Team Leader. The Ban List shall be posted in the HHA Office. A copy of the updated Ban List is mailed to each HHA resident with the monthly rent statement and a copy is given to the Hendersonville Police Officers assigned to HHA. All Office Personnel Safety Team Members may access the Ban List through the HHA computer system.

- D. Residents and members of the household shall take all reasonable steps to exclude Trespassed Persons from HHA Property, as required by the dwelling lease. Such reasonable steps include, but are not limited to, the resident notifying the HHA Property Manager and/or the Police Department if a Trespassed Person is seen on or about, HHA Property or the resident's dwelling unit. If it is determined that a resident or member of the resident's household invites, facilitates or permits a Trespassed Person to enter HHA Property, the resident will be in violation of the dwelling lease.

- E. In the event the Community Safety Team Leader should desire clarification or further investigation of a ban request, a decision to ban may be delayed and/or denied until such time as clarification has been provided or the requested information is submitted for consideration.

VIII. THE BAN LIST:

- A. The Ban List and ban case files shall be maintained by the Community Safety Team Leader in the administrative office of HHA at 203 North Justice Street, Hendersonville, North Carolina 28739, and shall be updated within three (3) business days when new names must be added or deleted. The listing shall include the date of revision, name of the person being banned, effective date of the ban, and any limitations or exceptions on the ban.

- B. The Resident Services Coordinator shall inform new residents of the existence of the HHA Ban Policy and Appeals Procedure and the Ban List as a part of new resident orientation. The Housing Manager shall also present the policy at each yearly recertification appointment for resigning.

IX. HOW LONG DOES NAME REMAIN ON BAN LIST:

- A. Persons placed on the Ban List may file a written appeal for removal from the Ban List at any time after the ban commenced.

B. If the person placed on the Ban List is not removed from the Ban List pursuant to the appeal process, unless the person has been convicted of a drug-related crime or other proscribed crime, the time period on the Ban List will not exceed five (5) years. Persons who have been arrested and convicted of a drug-related crime or other proscribed crime will not be considered for removal from the Ban List until all sentencing, probationary, parole and/or community service periods have been completed and the person is not engaged in or has not been engaged in any other acts or activities for which he/she may be banned. Subject to these requirements, the time period on the Ban List for persons charged with and convicted of a drug-related crime or other proscribed crime shall be for the time period from the date the person is charged until the date of conviction and for the following listed periods from the date of conviction:

Misdemeanor	-	2 years
Felony	-	5 years

C. If a person is already on the Ban List and is convicted of an additional drug-related crime or other proscribed crime, that person will be assessed additional Ban List time and will not be considered for removal from the Ban List until the ban period has expired. Any person whose time period is extended on the Ban List may file a written appeal regarding the extension of time at any time after the date of notice of the extension of time. Notice of the extension of time shall be made in the same manner as notice of placement on the Ban List.

X. PROCEDURE FOR APPEAL OF BAN:

A. A person placed on the Ban List and any resident affected by the placement of the person on the Ban List shall have the right to appeal the issuance of a ban. The request for appeal must be made in writing and must be mailed to the HHA at P. O. Box 1106, Hendersonville, NC 28793, or delivered to the office of the Community Safety Team Leader at 203 North Justice Street, Hendersonville, NC 28739, at any time after the date of notification of the ban. A person on the Ban List may enter the HHA Administrative Offices solely for the purpose of delivering his/her appeal.

B. The Community Safety Leader shall schedule a hearing within thirty (30) working days of the notice of appeal. Continuances requested by any party to the hearing may be granted by the Appeal Hearing Team for good cause shown.

C. The appeal process shall follow the same procedure as that for the Grievance Procedure for residents. The Hearing Panel considering grievances under that Policy shall be referred to as the Appeal Hearing Team for the purposes of this ban policy.

D. In considering the request for removal from the Ban List, the Appeal Hearing Team may consider the following:

1. Evidence presented by the Community Safety Team Leader and/or any member of the Community Safety Team regarding the reason(s) for placing the person on the Ban List.
2. Evidence presented by any resident affected by the ban.
3. Evidence of dismissal of criminal charges.
4. Evidence of completion of sentencing, probation or community service requirements.
5. Evidence concerning the banned person's rehabilitation from the activities or acts for which he/she was banned.
6. Evidence as to whether or not the person continues to engage in activities for which he/she may be banned.

Evidence may be in the form of testimony in person or by sworn affidavit or in the form of documentary evidence.

E. The Appeal Hearing Team shall determine whether or not good cause existed or still exists to ban the person based upon the evidence presented at the hearing. If the Appeal Hearing Team determines that good cause for the ban exists and the ban was issued appropriately, the ban shall remain in effect.

If the Appeal Hearing Team determines that a limited ban is more appropriate in any case where a complete ban was issued, the Team shall state the specific limitations of the ban, which would be effective immediately.

If the Appeal Hearing Team determines that good cause for the ban did not or does not exist and the ban should not have been issued or should be lifted, the the ban shall be lifted immediately with the name of the banned person being removed from the Ban List within three (3) business days of the date of the decision. The banned person shall be so advised at that time.

F. Following their review, the Appeal Hearing Team shall state their decision orally at the conclusion of the hearing, and shall also provide thereafter a written decision to the person making the appeal. Reasons for the decision shall be included. The written decision shall be placed in the HHA files and a copy shall be mailed or delivered by hand delivery to the banned person at his/her last known address. The Community Safety Team Members may access the written decision by use of the HHA computer system.

G. If the Appeal Hearing Team determines that the person shall remain on the Ban List, that person may not submit a subsequent appeal until at least six (6) months after the date of the decision of the Appeal Hearing Team.

IX. EXPIRATION OF BAN PERIOD:

When the facts are made known to the Community Safety Team Leader, he/she shall remove a person from the Ban List upon the expiration of the applicable time period for that person or upon a decision by the Appeal Hearing Team that the person shall be removed from the Ban List. The Community Safety Team Leader shall also review the Ban List every five (5) years and shall remove from the Ban List any person whose name has been on the Ban List for five (5) years, unless there is competent, material and substantial evidence that the person should remain on the Ban List. If it is decided after review of evidence, a banned person should remain on the Ban List after the five (5) years, notification will be sent to the banned person at the last known address. Only the Community Safety Team Lead has authority to remove persons from the Ban List.

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