

POLICY AND PROCEDURE FOR EXCLUSION OF INDIVIDUALS FROM HOUSING AUTHORITY PROPERTY

Knox County Housing Authority
216 W. Simmons St.
Galesburg, IL 61401
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Article I. Purpose / Scope of the Policy

Section 1.01 The Board of Commissioners of the Knox County Housing Authority (hereinafter referred to as the Authority) believes that all Housing Authority residents, staff and lawful visitors have the right to the safe and peaceful enjoyment of dwellings, common areas, and community spaces and to the safe and peaceful passage to and from same.

Section 1.02 To provide assurance of these rights the Authority hereby acts to exclude, or ban from its premises, persons who unlawfully or unreasonably interfere with those rights.

Section 1.03 Activities for which individuals will be banned from Knox County Housing Authority property include but are not limited to:

- (a) Damage to Housing Authority property and to property of individual residents;
- (b) disruptive and disorderly conduct;
- (c) bodily harm and threats of bodily harm;
- (d) the use, sale or gifting of drugs or other controlled substances;
- (e) violent criminal activity;
- (f) excessive (2 or more instances) criminal trespass upon Housing Authority property.

Section 1.04 The Authority finds that the perpetrators of such unlawful, improper or otherwise offensive conduct should not be permitted future entry upon, and access to any property of the Housing Authority.

Section 1.05 The barring of such individuals from Housing Authority property in accordance with due process and equal protection of law is the best, most effective and fairest means by which the Housing Authority can address the problems and dangers above set forth.

Section 1.06 A reasonable procedure should be established and promulgated whereby a perpetrator may be barred from Housing Authority property.

Section 1.07 NOW THEREFORE, in accordance with the mandate of the Housing Act (42 U.S.C. 1937 et Seq), the Code of Federal Regulations, and especially with 24 CFR 966.4(e.) and other relevant laws, and the future contractual assent of each resident, this policy and Procedure

is hereby adopted, and will be made an integral part of the lease agreement of each resident as his or her respective lease becomes subject to renewal.

Article II. Application: Cause

Section 2.01 Prior Ban Notice: No person shall be barred by the Authority from KCHA property except in accordance with the procedures herein provided.

Section 2.02 Individual residences: Nothing herein shall limit or in any way affect any right of an individual resident to prohibit the entry of persons upon premises leased by such individual resident.

Section 2.03 Application: This policy and procedure, and the Authority herein, granted to the Executive Director and the agents and employees of the Knox County Housing Authority shall apply to all property owned, leased or managed by the Knox County Housing Authority.

Section 2.04 It shall be the responsibility of the Executive Director and those employees or other persons appointed by the Executive Director or the Board of Commissioners to determine whether any individual or group of individuals is to be barred from entering upon Housing Authority property in accordance with the standards and procedures provided herein.

Section 2.05 Descriptive Words: Descriptive or “catch” words placed at the beginning of provisions herein, are intended for the convenience only of the reader and shall not be deemed material to the meaning of the provision nor shall such words in any way limit the content of the provisions to which they apply.

Section 2.06 Definitions: For the purpose of this Policy and Procedure, the following definitions shall apply:

- (a) Appointee: A person appointed by the Executive Director or the Board of Commissioners.
- (b) Board of Commissioners: The Chairman and Board of Commissioners of the Knox County Housing Authority.
- (c) CFR: Code of Federal Regulations.
- (d) Complaint: Same as Resident Complaint.
- (e) Executive Director: The Executive Director of the Housing Authority.
- (f) Housing Authority: The Knox County Housing Authority, 216 W. Simmons Street, Galesburg, IL 61401
- (g) Objection: The written opposition to a NOTICE OF BAR or the substance thereof.
- (h) Objector: The individual who files an objection.
- (i) Parties: Includes the Housing Authority, Residents, Objectors, and Complainants.
- (j) Resident: Any adult person (or minor where context indicates) lawfully residing in a Housing Authority owned residence.

- (k) Resident Complaint: A resident of one of the Housing Authority properties who lodges with the Housing Authority a complaint against a non-resident of the Authority.

Section 2.07 Cause: Cause for barring an individual or group of individuals from the property of the Knox County Housing Authority include the following:

- (a) The sale, manufacture, distribution, use or possession of a controlled substance, illegal drug or drug paraphernalia.
- (b) The unlawful use of, unlawful threatened use of, or unlawful possession of weapons, firearms or explosives.
- (c) Inflicting bodily harm to or the threat of bodily harm to a resident, employee, or authorized agent of the Housing Authority or to a law enforcement officer.
- (d) The willful destruction of or damage to property of the Housing Authority, residents, employees or any other individual or group of individuals on Housing Authority property.
- (e) Robbery, burglary, or commission of a serious crime or felony against the person of any resident, Housing Authority employee or any authorized agent of the Housing Authority.
- (f) The violation of a NOTICE OF BAR issued hereunder, or any term or condition of a bar imposed hereunder, the period of a subsequent bar issued pursuant hereto shall commence immediately on the termination of the prior bar.
- (g) A repeated violation under the following:
 - (i) Commission of or participation in the commission of disorderly conduct, as defined by the Illinois Criminal Code.
 - (ii) Other activity which is unlawful, and/or which threatens the health, safety or right of peaceful enjoyment of the property or residential premises of residents or employees of the housing authority.

Article III. PROCEDURE TO BAR: EFFECT

Section 3.01 Determination: When the Housing Authority shall receive a complaint or report from a resident, employee, police officer or others of the commission of conduct considered for bar as above defined, the Executive Director, or other duly appointed employee or agent, shall, based upon the best information available, make determinations as to whether (a) there is sufficient reason to believe that the alleged offense occurred ; and (b) that the perpetrator thereof has been adequately identified. Upon the making of those two determinations, the Executive Director or other duly appointed employee or agent, may issue a NOTICE OF BAR, to exclude the alleged perpetrator from Housing Authority premises, provided, such notice shall conform in all material respects to the requirements of this procedure.

Section 3.02 Notice of Bar: The notice to bar any person or persons from Housing Authority premises shall include the following:

Section 3.03 Name: Notices shall be directed to the person or persons to be barred and any Housing Authority resident the person to be barred has been known to accompany on Housing Authority premises.

Section 3.04 Complaint: The notice shall describe the alleged objectionable conduct and give the date, as nearly as possible, of the alleged occurrence.

Section 3.05 Rights: The notice shall inform the recipient of the rights hereunder to object to the bar action and of the procedure hereunder to make such objection and to appeal an adverse decision.

Section 3.06 Effective Date of Bar (upon service of the notice of bar)

Section 3.07 Inform of effect: The notice shall inform the alleged perpetrator that he, she or they may not enter upon Housing Authority property and premises within any project managed by the Housing Authority, specifically identified as:

- (a) Moon Towers, located at 255 West Tompkins Street, Galesburg, IL 61401
- (b) Bluebell Towers, located at 300 N. Jefferson Street, Abingdon, IL 61410
- (c) Woodland Bend, located on Iowa Avenue, Iowa Court, Michigan Avenue and Knox Street, in Galesburg, IL 61401
- (d) Cedar Creek Place, located on McKnight Street and McClure Street, in Galesburg, Illinois 61401
- (e) Whispering Hollowing, located on West Berrien and West South Streets at Harding Street, in Galesburg, Illinois 61401
- (f) Prairieland Townhouse Apartments located at 300 E. Davis Street, Galesburg, IL 61401
- (g) Brentwood Manor Apartments located at 301 Houston Street, Galesburg, IL 61401

Section 3.08 If the perpetrator shall enter upon any of those premises during the term of the bar, such entry shall be deemed to be criminal trespass and will be subject the entrant to criminal prosecution. Exceptions to the above are limited to visits to Housing Authority administrative offices during normal business hours for the purpose of filing or pursuing an appeal to the bar.

Section 3.09 Form of Notice: The notice shall be in writing, signed by the Executive Director, or other person duly acting for the Housing Authority and may be substantially in the form appended hereto as Form 93-1 (a) & (b) and the same is hereby approved and adopted.

Section 3.10 Service of Notice: The NOTICE OF BAR provided for hereunder shall be served upon the person or persons to whom it is directed, by delivering a true copy thereof to such person or persons, or by leaving a true copy thereof at the person's usual place of abode, with some person of the family, 13 years of age or older, and informing that person as to whom the Notice is directed, only such personal service shall be effective; any employee of the Housing Authority, any law enforcement officer, any official process server, or any other adult person approved by resolution by the Board of Commissioners, may serve the notice as aforesaid.

Section 3.11 Return of Service: The person serving the NOTICE OF BAR shall certify to such service by endorsing the name of the person served and the date and time served upon a

copy of the notice, signing such endorsement and shall then return same to the Housing Authority; the said certificate of service may be also made on a separate paper and attached to a copy of the notice; failure to make such certification of service or to return same to the Housing Authority shall not invalidate the service; return of service, certified as herein directed shall constitute prima facie evidence that the person so certified to have been served was in fact so served.

Section 3.12 Effect of Bar: No person shall enter upon the property or premises of any housing project managed by the Knox County Housing Authority. After the effective date of the NOTICE OF BAR duly served upon such person, or such later date as the bar becomes effective.

Section 3.13 Term of Bar: The term of the bar shall be permanent unless rescinded upon conclusion of an appeal hearing or discretionary action as provided for herein.

Article IV. OBJECTIONS: HEARING NOTICE

Section 4.01 Objections: Any person who is served with a NOTICE OF BAR hereunder shall have the right to object to such action so taken by the Housing Authority by filing an objection or notice in accordance with this section.

Section 4.02 The objection shall be in writing and shall be dated and signed by the objector. The objection shall list a mailing address where notice of hearings may be sent to the objector. A telephone number where the objector may be reached should be included if available.

Section 4.03 The objection may be filed at any time after the service of the bar. The bar shall remain in effect pending disposition of the objection.

Section 4.04 The objection must be mailed to or hand delivered during office hours maintained by the Housing Authority with any office personnel at the Housing Authority administrative offices located at 216 West Simmons Street, Galesburg, IL 61401.

Article V. CONFERENCE AND HEARING ON OBJECTION

Section 5.01 Notice of Hearing: Each person who has filed an objection to the bar shall be given a written notice, mailed or delivered to the address specified for such mailing in the objection or by delivering same personally to the objector at any location, the date and time of the hearing shall be specified on the notice, which date shall not be less than ten (10) days from date the notice is mailed or delivered. The notice shall inform the objector of the right to bring witnesses, cross-examine adverse witnesses and to be represented by counsel.

Section 5.02 Change of Address: It shall be the responsibility of the objector to notify the Housing Authority, in writing, of any change of address where the objector desires that his or her notice be sent, for all purposes under this procedure.

Section 5.03 Conduct of Hearing: The hearing shall be conducted as an informal review under the following structure:

- (a) The Executive Director or appointee shall preside.
- (b) The Objector or the Housing Authority may request the attendance of any complainant or witness upon due notice.
- (c) All parties shall be permitted to be represented by Counsel.
- (d) All parties shall have the right to confront and cross examine witnesses.
- (e) All parties may present witnesses or other evidence, and their own statements to refute any allegation made or to sustain their respective positions, and all persons shall be afforded full opportunity to be heard, as to the facts and as to their position.
- (f) Witnesses need not be sworn and no audio record is required.

Section 5.04 Disposition: Upon conclusion of the informal conference and hearing, the Authority may take any of the following actions, as shall be appropriate:

- (a) Based upon the evidence or lack thereof, the Bar Notice may be rescinded.
- (b) Based upon the evidence and all relevant factors, the Bar may be upheld or limited to a specific term.
- (c) Based upon the evidence, and all relevant factors, such as, but not limited to, hardship to a particular resident, the Bar terms may be shortened as aforesaid, or deferred upon conditions modified to avoid or lessen hardship when the circumstances indicate that this can be done without unreasonable risk of injury to or interference with residents and damage to property because of commitments made by the parties and conditions imposed.

Section 5.05 Written Decision: Within a reasonable time after the conference, the Housing Authority shall give its decision in writing, which shall summarize the conference and hearing, specifying the names of the participants, the date of the conference and hearing, and the nature and specific terms of the disposition of all the objections with the specific reasons therefor. A copy of the decision shall then be mailed to each objector and to each complainant. If the disposition results in a bar against any individual or group of individuals the term of the bar shall run from its original effective date.

Article VI. POST BAR DISCRETIONARY RELIEF

Section 6.01 Application for Discretionary Relief: At any time after a bar becomes effective, whether or not an appeal is pending, the individual barred and any resident may apply to the Executive Director or appointee for discretionary relief from the terms of the BAR. In the event of such an application, relief shall not be granted prior to the holding of a conference at which any complaint is included, the conference shall be informal, but any party may be represented by counsel.

Section 6.02 Discretion of Executive Director: The decision to terminate, shorten, condition, or modify the bar shall be within the sound discretion of the Executive Director, or appointee, taking into account the circumstances as they then exist, probable risks to the persons of residents,

employees, law enforcement officers, and to property of residents and the Housing Authority and the overall effect upon law enforcement, safety, and order in any of the Housing Authority properties, any commitments made by persons barred or residents, the apparent sincerity and feasibility thereof, and any hardships occasioned by the bar.

Section 6.03 Termination by Housing Authority: When circumstances have so changed that a bar is of no further practical value to promoting safe and decent conditions to the residents, the Housing Authority, upon its own volition, may, through its Executive Director or appointee, or the Board of Commissioners, terminate the bar against any individual.

Section 6.04 Notification to Residents: When a person is barred from Housing Authority property pursuant to this policy and procedure, any tenants whom the barred person has been known to visit shall be served notice of the barring of that person. Subsequently, no tenant so notified may knowingly permit the barred person to visit any of the herein-identified Housing Authority premises. Doing so shall be deemed a violation of one or more of the terms of the lease.

Section 6.05 Mailing of Notices and Lists: Notices as to persons barred, or lists thereof, may also be distributed to residents by mailer or newsletter inclusion.

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