

TRESPASS POLICY

INTRODUCTION

This chapter explains the RHA's trespass policy, based on HUD regulations, HUD guidance, and RHA policy decisions.

This chapter describes RHA policies related to trespass in 5 parts:

Part I: Resident Right to Guests and Visitors. This part describes the PHA resident's rights to have guests and visitors.

Part II: Authorized Persons. This part describes what persons are considered authorized to enter the premises of PHA property.

Part III: Unauthorized Persons. This part describes what persons are NOT considered authorized to enter the premises of PHA property.

Part IV: Criminal Trespass. This part defines criminal trespass, describes what criminal trespass is, who is subjected to that status, and how long the status remains with the person.

Part V: Criminal Trespass Appeals. This part describes the resident and non-resident's right to appeal the criminal trespass status.





PART I: RESIDENT RIGHT TO GUESTS AND VISITORS

I.A. OVERVIEW

The RHA has substantial and meaningful ties to the residents of public housing and the surrounding communities. For this reason, it is essential to establish policies that protect the right of tenants to have visitors and provide the RHA with a tool to keep disruptive and dangerous persons off of housing development property.

HUD provides no guidance on the subject of trespass. Therefore, the RHA must have specific policies in place to deal with issue in an ethical and legally sound manner.

I.B. GUESTS AND VISITORS

RHA Policy

RHA residents have a right to have both visitors and guests to their public housing unit. A visitor is an individual who is not being provided accommodations (staying) in the unit. A guest is a person who is being provided accommodations (staying) in the unit as described in Chapter 3 Section I.J. of this policy. The resident is responsible for the behavior of both visitors and guests. Both visitors and guests must conduct themselves in a manner that is not a violation of the tenant's lease

I.C. APPROVAL OF GUESTS AND VISITORS

RHA Policy

All guests may require prior written approval of the RHA as described in Chapter 8 of this policy. Visitors do not require prior written approval of the RHA.

PART II: AUTHORIZED PERSONS

II.A. AUTHORIZED PERSONS

HUD guidance regarding trespass are minimal, leaving it up to the RHA to develop reasonable policies.

The RHA can define what persons are authorized to be on the public housing property.

RHA Policy

Entrance to the RHA property is restricted to RHA residents, their household members, authorized guests, and visitors entering with the resident's permission, as well as RHA staff, commissioners, RHA agents, contractors, security and law enforcement officials carrying out official RHA or law enforcement business.

II.B. VISITORS ENTERING WITH RESIDENT'S PERMISSION

The RHA can require written notification from the resident that a visitor is expected. Or, the RHA could seek a resident's approval of that visitor at the time the visitor enters the property.

RHA Policy

The RHA can require either notification from the resident that a visitor is expected or the RHA can seek a resident's approval of that visitor's presence at the time the visitor enters the property. If the RHA is unable to confirm the tenant's approval of that visitor, they may be required to leave the property.



PART III: UNAUTHORIZED PERSONS

III.A. UNAUTHORIZED PERSONS

The RHA has discretion to define what persons are NOT authorized to enter the public housing property.

RHA Policy

The following persons are not authorized to enter the public housing property:

1. Visitors who do not have the approval of the tenant to visit their unit.
2. Persons over the age of 14 without a valid identification.
3. Residents or persons who are “barred” for Criminal Trespass from any RHA property, except any development they live in.
4. Evicted from federally assisted housing for drug-related criminal activity
5. Convicted of the production or manufacture of methamphetamine on the premises of federally assisted housing.
6. Registered sex offenders
7. Felons convicted of the production of methamphetamines

III.B. CONSEQUENCES FOR UNAUTHORIZED PERSONS

RHA Policy

The RHA or its agents will require unauthorized persons to immediately leave the property. If an unauthorized persons does leave the property there will be no further action. If an unauthorized person does not immediately leave the property they will be subject to the PHAs Criminal Trespass policy in this Chapter Section IV, below.



PART IV: CRIMINAL TRESPASS

IV.A. OVERVIEW

If it becomes necessary to hold someone responsible for trespassing on public housing property, it is essential that the policies for doing so are specific, understandable and available to all effected.

IV.B. DEFINITION OF CRIMINAL TRESPASS

RHA Policy

The definition of Criminal Trespass for this policy is the definition of such found in the State of Illinois statutes.

Criminal Trespass is when a person knowingly and without legal authority enters or remains within or on a building; or enters upon the land of another after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden; or remains upon the land of another, after receiving notice from the owner or occupant to depart; or presents false documents or falsely represents his or her identity orally to the owner or occupant of a building or land in order to obtain permission from the owner or occupant to enter or remain in the building or on the land.

A person has received notice from the owner or occupant if he/she has been notified personally, either orally or in writing or of a printed or written notice forbidding such entry that has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.

IV.C. PERSONS SUBJECTED TO CRIMINAL TRESPASS

RHA Policy

Persons are considered to be in violation of the Criminal Trespass statute, and therefore this policy, are unauthorized persons who do not leave the public housing property when required to do so by this policy, the RHA or the PHAs agents OR those whose behavior on site is a:

- Disturbance of the resident's peaceful enjoyment of the premises
- Destruction of the public housing property
- Threat to the health or safety of residents, RHA staff or their agents
- Drug-related criminal activity
- Illegal use of a drug
- Pattern of illegal use of a drug that interferes with the health, safety, or right to peaceful enjoyment of the premises by residents
- Criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including RHA staff residing on the premises) or by persons residing in the immediate vicinity of the premises
- Abuse of alcohol or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by residents.





IV.D. CONSEQUENCES OF CRIMINAL TRESPASS

RHA Policy

When a person is subjected to the Criminal Trespass statute and this policy, they:

- Must leave the property immediately or the RHA will have them arrested for Criminal Trespass
- Must NOT return to the property or any other RHA property or the RHA will have them arrested for Criminal Trespass
- Residents known to associate with a banned individual shall receive notice that the individual is banned from RHA property. The notice shall also state that pursuant to the Resident's lease, the resident or members of the resident's household shall not allow the individual who has been banned from entering the property. Allowing the individual onto RHA property shall be considered a lease violation.

IV.E. CRIMINAL TRESPASS RESULTING IN "BARRED" STATUS

RHA Policy

Persons who are subject to the Criminal Trespass statute will be "barred" from the property where the incident(s) occurred and any other RHA property for the time periods noted in Section IV.G. of this chapter unless they have been successful in seeking "appeal" from the RHA as detailed in Section IV. H. of this chapter.

In the event that an applicant for housing assistance is approved, the barring notice will be revised to remove the property in which the applicant will reside.



IV.G. LENGTH OF CRIMINAL TRESPASS “BARRING”

RHA Policy

The person will be subjected to the Criminal Trespass policy and be “barred” from the PHA property for the following time periods:

- **One year**
 - Visitors who do not have the approval of the tenant to visit their unit.
 - Residents or persons “barred” for Criminal Trespass from any RHA property other than those listed below in Section 17 –IV. G. 2, 3, and 4 of this chapter.
- **Five Years - Misdemeanors**
 - Registered Sex Offenders other than those subject to life time registration.
 - Drug-related criminal activity
 - Violent criminal activity
 - Criminal activity that threaten the health, safety, or welfare of tenants includes:
 - Criminal activity that threatens the health or safety of PHA staff, contractors, subcontractors, or agents.
 - Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.
- **Ten Years – Felonies**
 - Registered Sex Offenders other than those subject to life time registration.
 - Drug-related criminal activity
 - Violent criminal activity
 - Criminal activity that threaten the health, safety, or welfare of tenants includes:
 - Criminal activity that threatens the health or safety of PHA staff, contractors, subcontractors, or agents.
 - Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.
- **Life**
 - Conviction for drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
 - Subject to a lifetime registration requirement under a state sex offender registration program.

• **PART IV: CRIMINAL TRESPASS APPEALS**

IV.H. CRIMINAL TRESPASS APPEAL PROCESS

RHA Policy

A resident may request a hearing to remove the “barred” person from the RHAs Criminal Trespass list in accordance with the RHAs Grievance Procedure detailed in Chapter 13 of this document. If it is the determination of the Hearing Officer to remove the person from the Criminal Trespass list, the Chief Executive Officer or designee will remove him/her from the Criminal Trespass list.

Factors that will be considered in appealing the ban may include, but are not limited to:

1. Seriousness of the offense
2. Length of time and number of violations
3. Effect on the resident family
4. Any other relevant factor as set forth by the RHA and/or resident

