

ASHEVILLE HOUSING AUTHORITY
TRESPASS POLICY AND PROCEDURES

Effective April 1, 2018

Based on federal and state law, this policy is adopted to implement trespassing notification procedures that will ban persons from properties owned or managed by the Housing Authority of the City of Asheville (“Asheville Housing”). Trespass notices will be based on actions on or near Asheville Housing properties that threaten the safety, health or right to peaceful enjoyment of residents, guests of residents, or Asheville Housing employees or agents. Asheville Housing residents are required to comply with the lease and ensure that household members, guests, and visitors comply with the lease, including this trespass policy.

- (a) Any person who is not an Asheville Housing tenant or household member listed on a tenant’s lease may be sent a trespass notice and placed on the trespass list if there is credible evidence that they have engaged in:
 - (1) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, Asheville Housing residents, employees or agents;
 - (2) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of an Asheville Housing property;
 - (3) Any violent criminal activity on or near an Asheville Housing property;
 - (4) Any drug-related criminal activity on or near an Asheville Housing property;
 - (5) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor;
 - (6) Violating a condition of probation or parole under Federal or State law, if the violation threatens the health or safety of, or the right to peaceful enjoyment of the premises by, Asheville Housing residents, employees or agents;
 - (7) An abuse of alcohol or a controlled substance that threatens the health, safety or right to peaceful enjoyment of the premises by Asheville Housing residents; or
 - (8) Other activity that seriously disturbs residents’ right to peaceful enjoyment of their homes or results in the destruction of property on or near Asheville Housing property.
- (b) An Asheville Housing tenant or household member listed on their lease may be sent a trespass notice and added to the trespass list if he or she has engaged in activity described in subparagraph (a), but only after the tenant or household member has moved, been evicted through a court proceeding, or been removed from the lease by the tenant.
- (c) The Chief Executive Officer shall designate Asheville Housing staff authorized to send trespass notices and place individuals on the trespass list or remove them from the list.

(d) Procedures for trespass notice and placement on or removal from trespass list:

- (1) A law enforcement officer or housing site manager may request that a person be placed on the trespass list and provide evidence that there are grounds to do so under this policy.
- (2) The designated staff member(s) will review the request to determine if there is credible evidence under this policy to place a person on the trespass list. Credible evidence may include verbal or written statements from law enforcement, verbal or written statements from Asheville Housing site staff, verbal and/or written statements from residents and other community members, footage from security cameras, and any other physical evidence.
- (3) If the designated staff member determines that credible evidence exists, a trespass notice shall be delivered by first class mail or hand delivery to the person's last known address. Service shall be complete upon depositing the notice in a U.S. Postal Service depository addressed to the person's last known address, or upon hand delivery to the person's last known address by leaving the notice at that address with some person of suitable age and discretion residing there. If the person placed on the trespass list is a former household member or guest of a resident, notice will also be provided to the resident. The notice shall state the reason for the decision and that the person will be subject to charge and arrest for trespassing if they come onto an Asheville Housing property.
- (4) The trespasser's name will be added to the trespass list, and law enforcement will be notified that the person is subject to a trespass notice. The trespass list will be maintained on the Asheville Housing computer system and updated whenever new names are added or removed. Such changes will also be shared with law enforcement. The trespass list shall include the name of the person, effective date of the trespass notice, the date of any extension or revision, any limitations or exceptions to the trespass notice, and any other information deemed necessary or appropriate by Asheville Housing. The trespass list will be made available on request at the offices of each Asheville Housing property.
- (5) Asheville Housing managers will inform new residents of the existence of this policy and the trespass list as a part of new resident orientation.
- (6) If a person is on the trespass list and trespasses on Asheville Housing property or commits another act that would justify a trespass notification, another notification will be sent and the placement on the trespass list will be extended accordingly. Unless a person applies to remove himself or herself from the trespass list and is successful, a person will remain on the trespass list for three (3) years.
- (7) Persons placed on the trespass list may request an informal hearing under Chapter 16 of the Administrative Plan to request removal from the trespass list at any time, but may not request removal for at least one year if such a request has previously been made and denied.

- i. When a request for informal hearing is received, Asheville Housing staff will obtain updated information from law enforcement about whether there has been any recent trespass or other activity by the person that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, Asheville Housing residents, employees or agents.
- ii. If the CEO or a designated Asheville Housing staff conducting the informal hearing determines that the grounds for the original placement on the trespass list were unfounded or mistaken, and that the person in question has not engaged in any conduct justifying a trespass notice under this policy, then the person's name will be removed from the trespass list.
- iii. Otherwise, the CEO or designated Asheville Housing staff conducting the informal hearing may remove the person from the trespass list in their reasonable discretion based on some combination of the following factors:
 1. Whether a current Asheville Housing resident in good standing has requested removal from the trespass list of a person who is reentering the community from incarceration, so that the person can be reunited with the family and added to the lease;
 2. In the case of criminal activity, whether all trials and imprisonment periods have been completed, and whether the person was found guilty of a crime in connection with the activity that led to the trespass notification or extension;
 3. Whether the person has engaged in any further acts that would justify another trespass notice under this policy, which will be determined by checking with law enforcement;
 4. Whether the person has generally complied with the trespass notice or has repeatedly violated that notice;
 5. Whether the person can provide evidence of changes in behavior that would warrant the removal of his or her name from the trespass list, including but not limited to:
 - a positive record while incarcerated (e.g., program participation, low rates of incidents, etc.);
 - completion of a higher education degree or vocational program;
 - steady employment or holding of a position of meaningful responsibility for at least one year;
 - steady school attendance and passing grades with no adverse school events (suspension or other disciplinary action) for one year for minors;

Posted for comments: February 22, 2018
Comments due on or before March 26, 2018

- successful completion of established drug rehabilitation program;
 - completion of a restorative justice program; or
 - completion of an anger management program.
- (8) In addition to the informal hearing option, Asheville Housing staff will review the trespass list at least once each year and remove the names of persons who have been on the list for more than three (3) years, unless there is additional credible evidence that the person has engaged in other acts that would justify extended placement on the list.
- (9) If a person is removed from the trespass list through (i) a formal application or (ii) after HACA's review of the trespass list, 3 years have passed since a person has been added to the list, and there is no competent material and substantial evidence that the person has violated the trespass notice or engaged in other acts that would justify extended placement on the list during that time period, the person will be notified that they have been removed from the trespass list. HACA staff will call the last known telephone number on file to notify the person that he or she has been removed from the trespass list. If there is a third party who is working with the person (such as an attorney, a case worker, a social worker, or probation officer), that party will also be notified by telephone.