

Trespass and Ban Policy of
The Village of Nyack Housing Authority

I. Purpose

The Village of Nyack Housing Authority ("VNHA") has adopted this trespass policy (the "Policy") in an effort to enhance the safety and security of its properties within the Village of Nyack. The purpose of the Policy is to provide a written procedure for banning persons, who have engaged in activities that threaten the health, safety or right to peaceful enjoyment of VNHA's properties.

II. Definitions

- A. Police Department: The Clarkstown Police Department and/or the Orangetown Police Department ("Police Department").
- B. Policy: The VNHA Trespass Policy
- C. Trespass: For the purpose of this Policy, in accordance with the New York Penal Law Section 140 et seq., criminal trespass is defined as follows:

§ 140.05 Trespass. A person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises. Trespass is a violation.

§ 140.10 Criminal trespass in the third degree. A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in a building or upon real property

(e) where the building is used as a public housing project in violation of conspicuously posted rules or regulations governing entry and use thereof; or

(f) where a building is used as a public housing project in violation of a personally communicated request to leave the premises from a housing police officer or other person in charge thereof;

§ 140.15 Criminal trespass in the second degree. A person is guilty of criminal trespass in the second degree when:

- 1. he or she knowingly enters or remains unlawfully in a dwelling

§ 140.17 Criminal trespass in the first degree. A person is guilty of criminal trespass in the first degree when he knowingly enters or remains unlawfully in a building, and when, in the course of committing such crime, he:

- 1. Possesses, or knows that another participant in the crime possesses, an explosive or a deadly weapon; or

2. Possesses a firearm, rifle or shotgun, as these terms are defined in section 265.00, and also possesses or has readily accessible a quantity of ammunition which is capable of being discharged from such firearm, rifle or shotgun; or

3. Knows that another participant in the crime possesses a firearm, rifle or shotgun under circumstances described in subdivision two.

- D. Trespassed Person: A person who has been banned from entering VNHA Property in accordance with the Policy.
- E. VNHA: The Village of Nyack Housing Authority.
- F. VNHA Property: The properties owned and maintained by VNHA. VNHA Property is private property. VNHA Property includes, but is not limited to, the buildings, and parks within the Waldron Terrace, Pine Street Homes, and Depew Manor developments, including the common areas and parking lots within the properties owned by VNHA. Signs have been posted on VNHA Property that clearly identify the property as private property.

III. Procedure

- A. Authorized Persons: Entrance to VNHA Property is restricted to VNHA residents, their household members, authorized visitors and guests, as well as VNHA staff, commissioners, representative agents, contractors, and law enforcement officials carrying out official VNHA or law enforcement business.
- B. Persons Subject to Trespass. Any person who has engaged in activities that threaten the health, safety and right to peaceful enjoyment of VNHA residents, household members, authorized visitors or guests, or VNHA staff or agents may be prohibited from entering all VNHA Property. Examples of persons who may be banned from VNHA Property include, but are not limited to, the following:
1. A person who engages in a verbal or physical confrontation with any VNHA resident, household member or authorized guest or visitor, any VNHA staff or agent, or any law enforcement officer while on VNHA Property.
 2. A person who engages in any drug related criminal activity on or off the property.
 3. A person who engages in any criminal activity that threatens the health, safety and right to peaceful enjoyment.
 4. A person who engages in any violent or threatened violence against any VNHA resident, household member, authorized visitors or guest, or the staff or agents of VNHA.

5. A person who engages in criminal activity in which a deadly weapon or dangerous instrument was used, or threatened to be used, or any activity that resulted in physical injury to any person.
6. A person who damages, destroys, vandalizes, defaces, or otherwise reduces the value of the real and/or personal property of VNHA, its employees, commissioners, representatives, agents, residents, visitors and guests, contractors, any law enforcement official, or other member of the public.
7. A person who engages in any illegal behavior involving firearms or other deadly weapon, including, but not limited to unlawful possession, concealment or use of a said firearm or deadly weapon.
8. A person who commits a public nuisance, and other disorderly, lewd or lascivious conduct on VNHA property.
9. A person who loiters, or otherwise fails to have any legal business, on VNHA property.
10. A person who causes significant littering on VNHA property.
11. A person who engages in any illegal behavior involving automobiles or other vehicles, including, but not limited to, reckless driving, joy riding, destruction, and theft.
12. A person who engages 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, VNHA residents, visitors and guests, VNHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official VNHA or law enforcement business.

C. Trespass Determination. Where the Executive Director has information that a person has engaged in an activity that threatens the health, safety and right to peaceful enjoyment, as discussed in Section III above, the Executive Director shall present such information to the VNHA Board of Commissioners, which may, in its discretion, ban such person from entering VNHA Property.

1. Where possible, the Trespassed Person shall be notified immediately, either orally or in writing, by VNHA's Executive Director and/or the Police Department, that they are banned from all VNHA Property.

2. In addition, following VNHA's determination to ban a person from VNHA Property, a VNHA Trespass Letter ("the Trespass Letter") will be completed by VNHA's staff or agent. VNHA will make a reasonable effort, but is not required, to deliver the original Trespass Letter to the Trespassed Person, and where applicable, to any resident for whom the Trespassed Person was a guest or invitee. A photograph of the Trespassed Person (if available) may be maintained by VNHA. The Trespass Letter shall serve as notice that the Trespassed Person shall not enter any VNHA Property and that he/she may appeal VNHA's determination in accordance with Section IV below.

- a. In the event that the Trespassed Person is a juvenile, VNHA will make a reasonable effort, but is not required, to deliver the original Trespass Letter to the Trespassed Person's parent or legal guardian.
- b. VNHA staff or agent shall make a reasonable effort to include the following information in the Trespass Letter:
 - (1) the full name and address of the offender;
 - (2) the date the Trespass Letter is delivered to the banned individual;
 - (3) the resident/non-resident status of the individual;
 - (4) the development or location at which the incident occurred;
 - (5) the signature of the designated staff person banning the individual;
 - (6) the date, time and place the person was encountered for the offense;
 - (7) the reason(s) for banning; and
 - (8) a description of the individual, to include such information as birth date, social security number, and driver's license or other special identification, if available.

3. The names of all Trespassed Persons will be placed on VNHA's Trespass/Banned List which shall be updated quarterly or as often as determined by the Executive Director. The Trespass/Banned List shall be distributed to: 1) the Police Department, 2) all VNHA staff and commissioners; and 3) residents who continue to invite the trespassed person onto VNHA property, or have contact with the trespassed person on VNHA property.

The Trespass/Banned List shall be posted at each of the public housing developments and at VNHA's main office.

4. Residents and members of the household shall take all reasonable steps to exclude Trespassed Persons from VNHA Property. Such reasonable steps include, but are not limited to, the resident notifying the VNHA Executive Director or staff, and/or the Police Department, if a Trespassed Person is seen on or about VNHA 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 or remain on VNHA Property, the resident will be in violation of the dwelling lease.
5. In the event a Trespassed Person is observed on any VNHA Property by a VNHA staff member or agent, he/she shall notify the Executive Director. The Executive Director may contact the Police Department to report the trespass and, where appropriate, request the assistance of the police to remove the person from VNHA Property. In addition, the Executive Director may file a complaint for criminal trespass with the Police Department. The VNHA staff member or agent will be required to attest to the time, date, and location the Trespassed Person was observed on VNHA Property.

IV. Appeal Process

Upon addition to the VNHA Trespass List, the Trespassed Person and/or an interested resident may request a hearing to remove the Trespassed Person from the VNHA Trespass List.

- A. A request for an appeal of VNHA's determination must be submitted to the Executive Director within five (5) days following issuance of the Trespass Letter. VNHA will provide the grieving party with the date, time and place of the hearing within a reasonable amount of time. Should the grieving party fail to appear at the hearing, the determination of VNHA shall be final.
- B. The Hearing shall be held before the VNHA Board of Commissioners, who will review each appeal and conduct a hearing. The grieving party may bring a representative and/or relevant witnesses to the hearing and provide the Board of Commissioners with any relevant documents.
- C. The VNHA Board of Commissioners will make a final determination that will be provided to the grieving party in writing. A copy of the final determination will also be delivered to the Executive Director.
- D. Following the expiration of the period in which a Trespassed Person may appeal VNHA's determination, the Trespassed Person shall be banned from VNHA Property for at least one (1) year. The following is a list of waiting periods for several offenses that Trespassed Persons shall wait prior to submitting a written request to the Executive Director for a re-determination hearing. Depending on the circumstances, and in the sole discretion of VNHA, VNHA may lengthen or shorten the following waiting periods:

Offense

Waiting Period

verbal or physical confrontation	1 year
damage to property in excess of \$500	1 year
violence or threat of violence	2 years
drug related criminal activity on or off the property	5 years
criminal activity that threatens the health, safety and right to peaceful enjoyment	5 years
criminal activity involving the use or threatened use of of a weapon or instrument	5 years
sex offense subject to lifetime registration	lifetime
manufacture or production of methamphetamine on the premises of federal- or state-assisted housing	lifetime

E. Restrictive Visitation. In extenuating circumstances and for good cause shown, the Executive Director may permit Trespassed Persons to enter certain VNHA Property under restrictive visitation conditions. Examples of extenuating circumstances include, but are not limited to, a Trespassed Person visiting his/her child or ailing family member who resides in VNHA Property, assisting a family member with a move from VNHA Property, etc. In the sole discretion of VNHA, the Trespassed Person may be permitted to enter certain VNHA Property during business hours, may be required to check in and out with the Executive Director or staff, or under other restrictive conditions as determined by VNHA.

EXHIBIT A
COMMON AREAS

The following rules and regulations apply to all property owned, leased, or managed by The Village of Nyack Housing Authority ("VNHA").

NO ONE MAY:

1. **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 VNHA; or

A guest or visitor of a resident, household member or VNHA.
2. **Consume any alcoholic beverage in any common area:**
3. **Between 10:00 p.m. and 8:00 a.m.**
 - (a) Enter or use any playground, recreational area or park; or
 - (b) Congregate outdoors with others in any common area, except in:
 - (i) the resident's own yard or
 - (ii) the yard of a resident who is present with the visiting person(s).
4. **Stand, sit or walk on or across any electrical transformer, wall or fence.**
5. **Create a nuisance or otherwise unreasonably disturb the right to quiet enjoyment of the property, such as conduct that:**

Is loud or disorderly;

Impedes vehicular or pedestrian traffic, or

Threatens or intimidates others.
6. **Engage in any illegal activity.**

As used in these rules:

- (a) **Common Area** means any part of a housing development that is not leased for the exclusive use and occupancy of a resident, his/her household members, and his/her guests and visitor, including any parking lot, park, playground, recreational area, sidewalk, or yard (as defined below); and

(b) Yard means the outside area adjacent to an apartment unit, including any patio or porch, which area:

- (1) Is intended to serve as personal space for a resident of an apartment, his/her household members, and his/her guests and visitor and their guest, and
- (2) Is generally bounded by other yard and sidewalks providing access to more than one apartment.

If any question arises concerning the boundaries of a resident's "yard" the VNHA management will, upon request, identify the boundaries.

A violation of any of these rules will be considered a serious violation of the resident's lease, and may also be grounds for criminal charges against a resident or nonresident under applicable law, including trespass and disorderly conduct statutes.

NOTICE TO NON-RESIDENTS AND VISITORS TO THESE PREMISES

YOU WILL BE CONSIDERED A TRESPASSER AND SUBJECT TO ARREST AND PROSECUTION WITHOUT FURTHER NOTICE IF ANY OF THE FOLLOWING APPLIES TO YOU:

1. YOU ARE NOT AN AUTHORIZED GUEST OR VISITOR OF A RESIDENT OR EMPLOYEE OF THE GREENVILLE HOUSING AUTHORITY ("HOUSING AUTHORITY").
2. YOU ENGAGE IN ANY ILLEGAL ACTIVITY.
3. YOU CONSUME ANY ALCOHOLIC BEVERAGE EXCEPT WITHIN THE PREMISES OF A RESIDENT.
4. YOU WALK OR STAND ON THE YARD OF ANY RESIDENT WITHOUT THE RESIDENT'S PERMISSION AND PRESENCE.
5. YOU SIT ON OR DISTURB ANY POWER TRANSFORMER.
6. YOU DRIVE A VEHICLE ON ANY YARD OR COMMON AREA, OR PARK IN ANY AREA NOT DESIGNATED FOR PARKING.
7. YOU MAKE MAJOR REPAIRS OR WASH A VEHICLE ON HOUSING AUTHORITY PROPERTY.
8. YOU USE THE PLAYGROUNDS OR COMMON AREAS BEFORE 8:00 AM OR AFTER 10:00 PM.
10. YOU ENGAGE IN ACTIVITIES THAT THREATEN THE HEALTH, SAFETY AND RIGHT TO PEACEFUL ENJOYMENT OF HOUSING AUTHORITY RESIDENTS, HOUSEHOLD MEMBERS, AUTHORIZED VISITORS OR GUESTS, OR VNHA STAFF OR AGENTS AS DETERMINED BY THE HOUSING AUTHORITY.

Approved by resolution of the VNHA Board of Commissioners on _____

