

Trespass and Ban Policy of Moundsville Housing Authority

I. Purpose

The Moundsville Housing Authority (MHA) has adopted this Trespass and Ban Policy (the Policy) in an effort to enhance the safety and security of its properties within the City of Moundsville, WV. The purpose of the Policy is to define prohibited conduct and to provide a written procedure for banning persons who have engaged in activities that threaten the health, safety or right to peaceful enjoyment of MHA properties and its residents, agents and guests.

All procedures in this Trespass and Ban Policy will be documented by the Executive Director or Assistant Director of the MHA. Any Trespass Notice issued by the Assistant Director will be shared with the Executive Director along with the reason for the ban. Any appeals heard by the Assistant Director will also be shared with the Executive Director along with the outcome of the appeal.

II. Definitions

- A. Police Department: The City of Moundsville Police Department (MPD)
- B. Policy: The MHA Trespass Policy
- C. Trespass: For the purpose of this Policy, criminal trespass is defined as set forth in West Virginia Code, Chapter 61, Article 3B, Section 2 and 3 as:

2. Trespass in Structure or conveyance

Any Person who knowingly enters in, upon or under a structure or conveyance without being authorized, licensed or invited, or having been authorized, licensed or invited is requested to depart by the owner, tenant or agent of such owner or tenant, and refuses to do so, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one hundred dollars.

3. Trespass on property other than a structure or conveyance

It is an unlawful trespass for any person to knowingly, and with being authorized, licensed or invited, to enter or remain on any property, other than a structure or conveyance, as to which notice against entering or remaining is either given by actual communication to such person or by posting, fencing or cultivation.”

- D. Banned Person: A person who has been banned from entering MHA Property in accordance with the Policy or the applicable law.

- E. MHA: Moundsville Housing Authority, Moundsville, WV.
- F. MHA Property: The properties owned and maintained by MHA. MHA property is private property. MHA Property includes, but is not limited to the buildings, and grounds within the MHA communities, the common areas, and parking lots within the properties owned by MHA. Signs are posted on MHA Property that clearly identify the properties as private property

III. Procedure

- A. Authorized Persons. Admittance to MHA Property is restricted to MHA residents, their household members, authorized visitors and guests, as well as MHA staff, commissioners, representative agents, contractors, and law enforcement officials carrying out official MHA or law enforcement business.
- B. Persons Subject to Trespass. Any person who engages in activities that threaten the health, safety and right to peaceful enjoyment of MHA properties, its residents, their household members, authorized visitors or guests, or MHA staff or agents may be prohibited from entering all MHA Property. Examples of persons who may be banned from MHA Property include, but are not limited to, the following:
 - 1. A person who engages in a verbal or physical confrontation with any law enforcement officer, MHA staff, contractor or agent, resident, household member or authorized guest or visitor while on MHA Property.
 - 2. A person who engages in any drug related criminal activity on or off the property of the MHA.
 - 3. A person who engages in any criminal activity that threatens the health, safety and right to peaceful enjoyment of the MHA properties or its employees, tenants, guests, agents, contractors and household members.
 - 4. A person who engages in any violence or threatened violence against any MHA resident, household member, authorized visitor, guest, staff, contractors or agents of MHA. Prohibited conduct includes acts of domestic violence as defined in Chapter 62, Article 2, Section 28 of the West Virginia Code.
 - 5. A person who engages in criminal activity in which a deadly weapon or dangerous instrument is used, or threatened to be used, or any activity that resulted in physical injury to any person on or off MHA properties.

6. A person who steals, removes, damages, destroys, vandalizes, defaces, or otherwise reduces the value of the real and/or personal property of MHA, its employees, commissioners, representatives, agents, residents, visitors, household members, guests, contractors, law enforcement officials, 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 on or off premises.
 8. A person who commits a public nuisance, or other disorderly, lewd or lascivious conduct on MHA property.
 9. A person who loiters, or otherwise fails to have any legal business, on MHA property.
 10. A person who causes significant littering on MHA 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 on MHA property.
 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, MHA residents, visitors and guests, MHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official MHA or law enforcement business.
 13. During a lease termination proceeding, a resident and/or household member may be banned from all MHA Property except for his/her unit and MHA community in which he/she resides, as determined by MHA. At the conclusion of the lease termination proceeding MHA will determine if the resident and/or household member should be banned from all MHA Property.
- C. Trespass Determination. As determined by MHA authorized staff or agent, a person who has engaged in an activity that threatens the health, safety and right to peaceful enjoyment, as discussed in Section B above, may be banned from entering MHA Property.

1. The person being banned shall be notified in writing by MHA's staff or agent.
2. Following MHA's determination to ban a person from MHA Property, a MHA Trespass Letter ("the Trespass Letter") will be completed in triplicate by MHA staff or agent. MHA will make a reasonable effort, but is not required, to deliver the original Trespass Letter to the Banned Person. Once the Trespass letter has been prepared, distribution shall be as follows:

Copy Moundsville Police Department
Copy: MHA Administrative Office
Original: Banned individual

A photograph of the Trespassed Person (if available) may be maintained by MHA. The Trespass Letter shall serve as notice that the Banned Person shall not enter any MHA Property and that he/she may appeal MHA's determination in accordance with Section IV below.

- a. In the event that the Banned Person is a juvenile, MHA 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. MHA 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 date, time and place of the offending conduct and a concise statement of the nature of the offense and/or
 - (4) the reason(s) for banning;
3. The names of all Banned Persons will be placed on MHA'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 law enforcement offices working as agents for MHA, (3) all staff members; and (4) residents through newsletter or MHA website.

The current Banned List shall be posted at MHA's administrative office and listed on MHA's website.

4. Residents and members of the household must take all reasonable steps to exclude the Banned Person from MHA Property, as required by the

dwelling lease. Such reasonable steps include, but are not limited to, the resident notifying the MHA Executive Director or Assistant Director and/or the Police Department if a Banned Person is seen on or about, MHA 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 Banned Person to enter MHA Property, the resident will be in violation of the dwelling lease and may be subject to eviction.

5. In the event a Banned Person is observed on any MHA Property by MHA staff or agent, he/she should contact the Police Department. In the event that a member of the Police Department is unavailable, a complaint for a warrant for the offense of criminal trespass may be filed with the Magistrate Court of Marshall County. The MHA staff member or agent will be required to document the time, date, and location the Banned Person was observed on MHA Property.

IV. Appeal Process

Upon the issuance of a Trespass Letter, the Banned Person and/or an interested resident may request a hearing.

- A. A request for a hearing of MHA determination must be submitted to the Executive Director or Assistant Director within five (5) days following issuance of the Trespass Letter. MHA will provide the appealing party with the date, time and place of the hearing within a reasonable time. Should the appealing party fail to appear at the hearing, the determination of the Trespass Letter and MHA shall be final.
- B. The Hearing Officer (either the Executive Director or Assistant Director) will preside and conduct a hearing. Prior to the hearing, the appealing party shall provide MHA with (1) a current certified copy of the banned person's criminal history, (2) verification of the banned person's residence for the past 12 months, and (3) any relevant documents supporting the appeal. The appealing party may bring a representative and/or relevant witness to the hearing.
- C. The Hearing Officer will issue a final determination which will be provided to the appealing party in writing.
 1. The determination may include removing the Banned Person from the Trespass List immediately or establishing a probationary period of one (1) year.

- D. A Banned Person shall not be permitted to enter the property of the MHA or its residents for at least one (1) year. The following is a list of banned periods for specified offenses. At the expiration of the specified period, the Banned Person may submit a written request to the Executive Director or Assistant Director for a re-determination hearing. Depending on the circumstances, and in the sole discretion of MHA, MHA may lengthen or shorten the following banned periods.

Offense	Banned Period
Verbal or physical confrontation	3 years
Damage to property of less than \$500	3 years
Violence or threat of violence	3 years
Damage to property of more than \$500	5 years
Drug related criminal activity on or off the property	Minimum of 5 years
Criminal activity involving the use or threatened use of a weapon or instrument	Minimum of 5 years
Sex offense subject to lifetime registration	Lifetime
Manufacture or production of methamphetamine on the premises of federally assisted housing	Lifetime

- E. Limited Visitation. For good cause shown, the Executive Director or Assistant Director may permit a Banned Person to enter certain MHA Property under restricted conditions that the Executive Director may establish on a case by case basis. Good cause includes, but is not limited to, a Banned Person visiting his/her child or ailing family member who resides in MHA Property, assisting a family member with a move from MHA Property. In the sole discretion of MHA, the Banned Person may be permitted to enter designated MHA Property during business hours, may be required to check in and out with office staff or under other restrictive conditions as determined by MHA at the time of the request. The conditions of limited visitation shall be in writing and delivered to the banned person.

V. Removal from Existing Banned List

A person listed on the Trespass List may only be removed by the Executive Director or Assistant Director.

Persons on the Trespass List in existence before the effective date of this policy may request their name be removed from the list by submitting that request in writing to the Executive Director or Assistant Director and providing the documents set forth in Section IV. Appeal Process B.

Policy Adopted On: 06/16/2016

Effective Date: 06/16/2016