

Defiant Trespass and Ban Policy

The Housing Authority of the Borough of Hightstown

I. Purpose

The Housing Authority of the Borough of Hightstown (“Authority”) has adopted this defiant trespass and ban policy in an effort to enhance the safety and security of its properties and tenants within the Authority. This policy revises and amends the Authority’s previous written procedures and resolutions for banning persons who have engaged in activities that threaten the health, safety, or right to peaceful enjoyment of the Authority’s properties and community.

II. Definitions

- A. Authority: The Housing Authority of the Borough of Hightstown, New Jersey.
- B. Authority Property: The properties owned, leased, and maintained by the Authority. Authority Property is private property. Authority Property includes, but is not limited to, the buildings and the common areas within the properties owned, leased, and maintained by the Authority. Signs have been posted on Authority Property that clearly identifies the Authority Property as private property.
- C. Common Area: Any part of the housing development that is not leased for exclusive use and occupancy of a resident, including any parking lot, laundry facility, sidewalk, and/or dumpster area. Refer to Exhibit A for guidelines.
- D. Policy: The Authority’s Defiant Trespass and Ban Policy.
- E. Police Department: The Borough of Hightstown Police Department.
- F. Trespass: For the purpose of this Policy, criminal trespass is defined in accordance with the New Jersey statutes in N.J.S.A. 2C:18-3.b, as amended.
- G. Trespassed Person: A person who has been banned from entering Authority Property in accordance with the Policy.
- H. Trespass Letter: Notice of Defiant Trespass that states if the named person returns to the Authority Property, the person shall be subject to criminal trespass as provided in N.J.S.A. 2C:18-3.b, as amended.
- I. Trespass List: A list of banned persons from Authority Property due to defiant trespassing.

III. Procedure

- A. Authorized Persons. Entrance to Authority Property is restricted to Authority leaseholders and their household members, authorized visitors and guests, as well as Authority staff, commissioners, representative agents, contractors, and law enforcement officials carrying out official Authority 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 Authority residents, authorized visitors or guests, or Authority staff may be prohibited from entering all Authority Property. Examples of persons who may be banned from Authority 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, Authority staff or representative agent, resident, or authorized guest or visitor while on Authority 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 Authority resident, authorized visitor or guest, staff or representative agent of the Authority. This includes domestic violence as described in the Violence Against Women Reauthorization Act of 2005 (VAWA).
 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 the Authority, its employees, commissioners, representative 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, including drunkenness, and other disorderly, lewd, or lascivious conduct on Authority Property.
9. A person who loiters or otherwise fails to have any legal business on Authority Property.
10. A person who causes significant littering on Authority 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, Authority residents, visitors and guests, Authority employees, commissioners, representative agents, contractors, and law enforcement officials carrying out official Authority or law enforcement business.
13. During a lease termination proceeding, a resident and/or household member may be banned from all Authority Property except for his/her apartment unit, as determined by the Authority. At the conclusion of the lease termination proceeding, the Authority will determine if the resident and/or household member should be banned from all Authority Property.

C. Trespass Determination. As determined by the Authority's authorized staff, a person who has engaged in an activity that threatens the health, safety, and right to peaceful enjoyment may be banned from entering Authority Property.

1. The person being banned may be notified orally or in writing by the Authority's staff or legal counsel. New Jersey law **does not require** that the Trespassed Person sign nor receive any documentation.
2. Following the Authority's determination to ban a person from Authority Property, a Trespass Letter will be completed by the Authority's staff or legal counsel. The Authority will make a reasonable effort, but is not required, to deliver the original Trespass Letter to the Trespassed Person. Once the Trespass Letter has been delivered, copies shall be distributed as follows:
 - Banned individual
 - Police Department
 - Authority Office

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

- a. In the event that the Trespassed Person is a juvenile, the Authority 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. Authority staff 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 Police Officer or designated Authority 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, driver's license, or other special identification.
3. The names of all Trespassed Persons will be placed on the Authority's Trespass List which shall be updated quarterly or as often as determined by the Executive Director. The Trespass List shall be distributed to: 1) the Police Department, 2) all law enforcement officers working as agents for the Authority; 3) residents through newsletter or other mailings.

The Trespass List shall be posted at the Authority office.

4. Residents and members of the household shall take all reasonable steps to exclude Trespassed Persons from Authority Property, as required by the dwelling lease. Such reasonable steps include, but are not limited to, the resident notifying the Authority's Executive Director and/or the Police Department if a Trespassed Person is seen on or about the Authority Property or the resident's dwelling unit. If it is determined that a resident invites, facilitates, or permits a Trespassed Person to enter Authority Property, the resident will be in violation of the dwelling lease.
5. In the event a Trespassed Person is observed on any Authority Property by Authority staff, he/she should contact the Police Department for assistance. The Authority staff member will be required to attest to the time, date, and location the Trespassed Person was observed on Authority Property by completing an Authority Incident Report.

IV. **Appeal Process**

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

- A. A request for an appeal of the Authority's determination must be submitted to the Executive Director within five (5) days following issuance of the Trespass Letter. The Authority 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 the Authority shall be final.
- B. The Hearing Officer shall be the Executive Director, who will review each appeal and conduct a hearing. Prior to the hearing, the grieving party shall provide the Authority with (1) a current certified copy of the Trespassed Person's criminal history, (2) a list of the Trespassed Person's previous home addresses, and (3) any relevant documents. The grieving party may bring a representative and/or relevant witnesses to the hearing.
- C. The Executive Director will make a final determination which will be provided to the grieving party in writing.

- D. Following the expiration of the period in which a Trespassed Person may appeal the Authority’s determination, the Trespassed Person shall be banned from Authority 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 the Authority, the Authority may lengthen or shorten the following waiting periods:

<u>Offense</u>	<u>Waiting Period</u>
verbal or physical confrontation	1 year
damage to property in excess of \$100	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 federally assisted housing	lifetime

- E. Restrictive Visitation. In extenuating circumstances and for good cause shown, the Executive Director may permit Trespassed Persons to enter certain Authority 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 Authority Property. In the sole discretion of the Authority, the Trespassed Person will only be permitted to enter certain Authority Property during business hours, will be required to check in and out with the Executive Director, and/or under other restrictive conditions as determined by the Authority.

V. **Removal from Defiant Trespass and Ban List**

Persons listed on the Trespass List may not be removed by anyone except in consultation with the Executive Director.

EXHIBIT A
COMMON AREAS

The following rules and regulations apply to all property owned, leased, or managed by the Housing Authority of the Borough of Hightstown (“Authority”).

NO ONE MAY:

1. Enter the property at any time unless he or she is:
 - A resident whose name is on the lease of a dwelling unit in the Authority Property;
 - An employee or representative agent of the Authority; or
 - A guest or visitor of a resident or Authority staff.
2. Consume any alcoholic beverage in any common area.
3. Congregate outdoors with others in any common area.
4. Stand, sit or walk on or across any porch, wall, roof, 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;
 - Threatens or intimidates others.
6. Engage in any illegal activity.
7. Sell or solicit for sale without a permit from the Borough of Hightstown, or sell or solicit for sale between 8:00 p.m. and 8:00 a.m., even with a permit.

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 non-resident 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 HIGHTSTOWN HOUSING AUTHORITY (“AUTHORITY”).
2. YOU ENGAGE IN ANY ILLEGAL ACTIVITY.
3. YOU CONSUME ANY **ALCOHOLIC** BEVERAGE, EXCEPT WITHIN THE APARTMENT UNIT OF AN AUTHORITY RESIDENT.
4. YOU WALK OR STAND ON THE PORCH OF ANY RESIDENT WITHOUT THE RESIDENT’S PERMISSION AND PRESENCE.
5. YOU SIT ON OR DISTURB ANY FENCE OR STAIRWELL.
6. YOU PARK IN ANY AREA NOT DESIGNATED FOR PARKING.
7. YOU MAKE MAJOR REPAIRS OR WASH A VEHICLE ON AUTHORITY PROPERTY.
8. YOU SELL OR SOLICIT FOR SALE WITHOUT A PERMIT FROM THE BOROUGH OF HIGHTSTOWN, OR YOU SELL OR SOLICIT BEFORE **8:00 AM** OR AFTER **8:00 PM**, EVEN WITH A PERMIT.
9. YOU ENGAGE IN ACTIVITIES THAT THREATEN THE HEALTH, SAFETY, AND RIGHT TO PEACEFUL ENJOYMENT OF AUTHORITY RESIDENTS, AUTHORIZED VISITORS OR GUESTS, AUTHORITY STAFF, OR REPRESENTATIVE AGENTS AS DETERMINED BY THE AUTHORITY.

