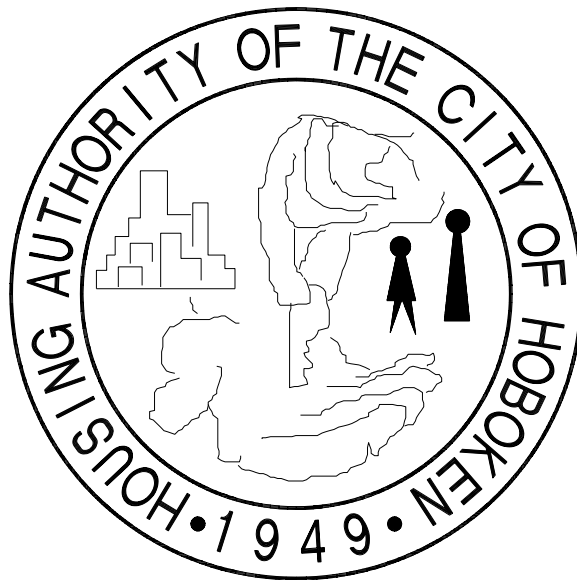


DRAFT 3/1/2022

HOUSING AUTHORITY OF THE CITY OF HOBOKEN



DRUG ABUSE AND OTHER CRIMINAL ACTIVITY POLICY

ADOPTED _____, 2022

HOUSING AUTHORITY OF THE CITY OF HOBOKEN
DRUG ABUSE AND OTHER CRIMINAL ACTIVITY POLICY

A. Definitions

As used in this Drug Abuse and Other Criminal Activity Policy, the following terms shall have the following meanings:

“Applicant” means someone who has applied for admission to the Program but is not a Tenant.

“Authority” means the Housing Authority of the City of Hoboken.

“Authority Personnel” means any employee, contractor, subcontractor, or agent of the Authority.

“Controlled Substance” means any controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802) as the same may be amended or replaced from time to time.

“Covered Person” means a Tenant, any member of the Tenant's Household, a Guest, or Other Person Under the Tenant's Control.

“Criminal Activity” means any conduct that is prohibited by any criminal laws, whether federal, state, or county, regardless of whether there has been an arrest or conviction, and without satisfying the standard of proof for a criminal conviction.

“Drug-Related Criminal Activity” means the illegal manufacture, sale, distribution, or use of a drug or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

“Federally-Assisted Housing” means housing assisted under any of the following programs: (1) Public housing; (2) Housing receiving project-based or tenant-based assistance under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f); (3) Housing that is assisted under section 202 of the Housing Act of 1959, as amended by section 801 of the National Affordable Housing Act (12 U.S.C. 1701q); (4) Housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the National Affordable Housing Act; (5) Housing that is assisted under section 811 of the National Affordable Housing Act (42 U.S.C. 8013); (6) Housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715l(d)(3)) that bears interest at a rate determined under

the proviso of section 221(d)(5) of such Act (12 U.S.C. 1715l(d)(5)); (7) Housing insured, assisted, or held by HUD or by a State or local agency under section 236 of the National Housing Act (12 U.S.C. 1715z-1); or (8) Housing assisted by the Rural Development Administration under section 514 or section 515 of the Housing Act of 1949 (42 U.S.C. 1483, 1484).

“Guest” means anyone staying in the unit with the permission of a Tenant or another Household member with the authority to give such permission.

“Head of Household” means the member of the Household designated as the Head of Household in accordance with the Admissions and Continued Occupancy Policy of the Authority.

“Household” means all residents of a unit, including all Tenants and any additional people who, with the permission of the Authority, live in the unit (e.g. live-in aides, foster children, and foster adults).

“Informal Hearing” means a hearing before the Executive Director of the Authority or designee of said individual. The Tenant may be represented by an attorney at this hearing. The Authority’s counsel may attend, if requested by the Executive Director of the Authority.

“Judgment for Possession” means a court order for the eviction of Tenant, giving a landlord the legal right to have the Tenant removed from an apartment.

“Lease” means the written agreement between the Authority and the Tenant for possession of a unit.

“Other Person Under the Tenant’s Control” means a short-term invitee who is not “staying” in a unit. Such a person is only under the Tenant’s control during the period of invitation and the person is on the Premises because of that invitation.

“Policy” means this Drug Abuse and Other Criminal Activity Policy of the Authority.

“Premises” means all property owned or managed by the Authority, including common areas and grounds.

“Program” means the Low-Income Public Housing Program operated by the Authority.

“Recertification” means the annual process of securing documentation from a Household to determine continuing eligibility for the Program.

“Record” means any written information or document, including, but not limited to, police reports, incident reports, arrest reports, former landlord reports, eyewitness statements, etc.

“Stipulation Agreement” means an agreement between the Authority and a Tenant filed in the Superior Court of New Jersey, wherein the Tenant agrees to a judgment for possession in favor

of the Authority and remains in possession of the unit. However, if the Tenant breaches the agreement, the Authority may file a certification of breach with the court, on notice to the Tenant. The court may then issue a warrant of removal.

“Tenant” means the person or persons (other than a live-in aide) who executes the Lease for a dwelling unit.

“Trespass and Ban Policy” means the Defiant Trespass and Ban Policy of the Authority.

“USPS” means any branch of the United States Postal Service located in the City of Hoboken, New Jersey.

“Violent Criminal Activity” means any Criminal Activity that has one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause or be reasonably likely to cause serious bodily injury or property damage.

B. Applicant Conduct

1. With limited exception, any Applicant who has been evicted from Federally-Assisted Housing for engaging in Drug-Related Criminal Activity is ineligible for admission to the Program for a three (3) year period, beginning from the date of eviction. The Authority may consider admission if it determines that:
 - a. The evicted Household member who engaged in the Drug-Related Criminal Activity has successfully completed a supervised drug rehabilitation program approved by the Authority; or
 - b. The circumstances leading to the eviction no longer exist (for example, the criminal Household member has died or is imprisoned).
2. Any Applicant shall be denied admission to the Program if:
 - a. The Authority determines that any member of the Applicant household is currently engaging in illegal use of a controlled substance. Such an individual is “currently engaged in” the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current; or
 - b. The Authority determines that it has reasonable cause to believe that the illegal use or pattern of illegal use of a controlled substance by any member of the Applicant household may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents.

3. Any Applicant who has ever been convicted of Drug-Related Criminal Activity related to the manufacture or production of methamphetamine on the premises of Federally-Assisted Housing shall be permanently denied admission to the Program.
4. Any Applicant who is subject to a lifetime registration requirement under a state sex offender registration program shall be permanently denied admission to the Program.
5. The Authority, in its' sole discretion, may prohibit admission of a household to the Program if the Authority determines that any household member is currently engaging in, or has engaged in:
 - a. Drug-Related Criminal Activity;
 - b. Violent Criminal Activity;
 - c. Other Criminal Activity that would threaten the health, safety, or right to peaceful enjoyment of the Premises by other Tenants; or
 - d. Other Criminal Activity that would threaten the health or safety of any Authority Personnel.

C. Tenant Conduct

1. Any Criminal Activity by a Covered Person, whether on or off the Premises, that threatens the health, safety, or right to peaceful enjoyment of the Premises by other Tenants or Authority Personnel is cause for eviction.
2. Any Drug-Related Criminal Activity by a Tenant, whether on or off the Premises, is cause for eviction.
3. The Authority shall terminate the tenancy of any Tenant:
 - a. Who is convicted of producing methamphetamine in a building or complex assisted under the Program or any Section 8 housing program and administered by the Authority; or
 - b. Who is or becomes subject to a lifetime registration requirement under a state sex offender registration program.
4. The Authority may terminate the tenancy of any Tenant:
 - a. Who is determined to be illegally using a Controlled Substance;

- b. Who abuses alcohol (or engages in a pattern of abuse) or a Controlled Substance (or engages in illegal use or pattern of illegal use) when the Authority reasonably believes such use or pattern of abuse, may interfere with the health, safety or right to peaceful enjoyment of the Premises by other Tenants or Authority Personnel.
- c. Who willfully allows the leased unit to be used to store, manufacture, distribute or facilitate the use of a Controlled Substance;
- d. Who is fleeing to avoid prosecution or custody or confinement after conviction for a felony (or a high misdemeanor in New Jersey); or
- e. Who is violating a condition of probation or parole imposed under federal, state, or local law. The Authority will provide to federal, state, or local law enforcement officials information concerning Covered Persons whom the officials are pursuing for violating parole or fleeing to avoid prosecution.
- f. Who displays, uses, possesses, or allows any Covered Person to display, use, or possess any firearms, operable or inoperable, or other weapons, as defined by the laws and courts of the State of New Jersey anywhere on the Premises.

D. Authority Evictions

- 1. Criminal Activity shall be treated as a serious violation of the material terms of the Lease. The Authority may seek eviction, under appropriate laws and statutes, of any Tenant determined to be in violation of the material terms of the Lease.
- 2. Under the terms of federal, state, and local law, the Authority may evict a Tenant if the Authority determines that any Covered Person has engaged in Criminal Activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.
- 3. The Authority may not evict on the basis of suspicion or rumor. The Authority must prove in court that a tenant has violated the lease.
- 4. Upon entering into the Lease, Tenants promise to abide by its terms. Tenants have an affirmative obligation to assure that neither they nor any Covered Person will engage in Criminal Activity. The Authority may evict the entire Household when a Covered Person engages in Criminal Activity in violation of this Policy.
- 5. The United States Department of Housing and Urban Development has made a due process determination that the eviction procedures of the Superior Court of New Jersey provides the opportunity for a hearing in court that contains the basic elements of due process. Therefore, when the Authority seeks to terminate a tenancy for Criminal Activity, the

Authority is not required to offer the Tenant the opportunity for a formal grievance hearing. The Authority, in its' sole discretion, may offer the Tenant the opportunity for an Informal Hearing.

6. The Authority will handle all eviction cases on an individual basis. This Policy will be implemented and enforced even handedly. Similar lease violations in similar circumstances will result in similar sanctions.

E. Factors Considered in Determining to Evict a Household

The factors to be considered in determining whether to seek the eviction of a Household are as follows:

1. The magnitude and seriousness of the offense. All offenses dealing with Drug-Related Criminal Activity are serious and it is reasonable to have a strict policy which allocates relatively scarce affordable housing resources to those who abide by the rules and remain free of Drug-Related Criminal Activity. However, a less serious non-frequent indiscretion by a member of the Household cannot be equated with the most serious offense (i.e. performing as a drug merchant or committing of violent acts). The Authority will review closely, cases in which the offense is relatively less serious.
2. Authority intervention by staff who work with families on a voluntary basis. If the Household is participating fully and, most importantly, making sufficient progress in a plan to correct a problem involving a Controlled Substance, such will be taken into account in determining whether to seek eviction.
3. The knowledge and/or ability to know of the offense by the Head of Household. Consideration of sanctions other than eviction of the entire Household may, in the sole discretion of the Authority, be made if the offense was committed by a Household member, off the Premises, and out of the control of the Head of Household.
4. Frequency of violations. If a Covered Person is cited by the Authority more than once for serious Lease violations, repeated violations by the same Household indicates a lack of ability or motivation to abide by the rules.

F. Alternate Sanctions

At the sole discretion of the Authority, the Authority may impose sanctions other than eviction of the entire household, including, but not limited to:

1. A Stipulation Agreement in which all members of the Household:
 - a. Acknowledges the offense;

- b. Agree to take action to ensure that the offense is not repeated (e.g. the offending Household member is removed from the Household and sufficient proof is provided to evidence the same); and
 - c. Consent to a judgment for possession, which the Authority agrees not to execute unless the Stipulation Agreement is violated (e.g. the offending person returns as an unauthorized occupant or guest of the Household or there is another serious Lease violation). In such circumstances, the Stipulation Agreement shall require only that the Authority prove a violation of the Stipulation Agreement, rather than subsequent lease violations or criminal conduct.
- 2. In some cases, the Authority may require affidavits or agreements from Tenants in lieu of termination of tenancy.
 - 3. In some minor cases, the Authority may issue a written warning in the form of a legal Notice to Cease.

Consideration of alternate sanctions will not be given if the Criminal Activity is committed by the Head of Household or spouse while on the Premises.

G. Guidelines

The following guidelines shall serve as an instructive guide for the Authority and Tenants with respect to violations of this Policy and their serious consequences. The following guidelines are not mandatory, not applicable in all circumstances, and not exhaustive. In making any decision pursuant to this Policy, the Authority shall consider alternatives and factors as described more clearly herein and may, on a case-by-case basis, consider the totality of circumstances based upon the best evidence available to the Authority and opt for alternate sanctions to eviction.

- 1. Drug charges:
 - a. By Head of Household:
 - i. Possession with intent to distribute --- On/Off site --- termination of tenancy.
 - ii. Possession charge only --- On/Off site --- Stipulation Agreement to enter a rehabilitation program and no further lease violations for two years.
 - b. By other members of the Household on the lease:
 - i. Possession with intent to distribute --- On/Off site --- termination of tenancy.

- ii. Possession charge only --- On/Off site --- Stipulation Agreement to remove household member or enter a rehabilitation program and no further lease violations for two years.
- c. By Covered Persons not on lease:
 - i. Possession with intent to distribute:
 - 1. On site --- Stipulation Agreement for offender not to enter the Premises and no further violations from the unit for two years. Also, if the arrest happened in the unit involving a Controlled Substance, then termination of tenancy.
 - 2. Off-site --- certification to be signed by the Head of Household and must provide A or B: (A) documentation of address for the offender; (B) change of address by the Head of Household for the offender filed with the USPS. Also, if charged within 500 feet of public housing, then Stipulation Agreement for offender not to enter the Premises and no further violations from the unit for two years.
 - ii. Possession charge only --- On/Off site --- certification to be signed by Head of Household and must provide either A or B: (A) documentation of address for the offender; (B) change of address by the Head of Household for the offender filed with the USPS.
- 2. Weapon charges:
 - a. Firearms:
 - i. By Head of Household --- On/Off site --- termination of tenancy.
 - ii. Other Tenants --- On/Off site --- termination of tenancy.
 - iii. Other Covered Persons
 - 1. On site --- Stipulation Agreement for the offender not to enter the Premises and no further violations from the unit for two years. Also, if the arrest happened in the unit with firearms, then termination of lease.
 - 2. Off site --- certification to be signed by head of household must provide either A or B: (A) documentation of address for the offender; (B) change of address by the Head of Household for the offender filed with the USPS. Also, if charged within 500 feet of public housing, then Stipulation

Agreement for offender not to enter the Premises and no further violations from the unit for two years.

- b. Weapons other than firearms:
 - i. By Head of household --- On/Off site --- based on the severity of weapons charge: termination of tenancy or Stipulation Agreement for no further violations for two years.
 - ii. Other Tenants --- On/Off site --- based on severity of weapons charge: termination of tenancy or Stipulation Agreement for no further violations for two years.
 - iii. Other Covered Persons --- On/Off site --- certification to be signed by head of household must provide either A or B: (A) documentation of address for the offender; (B) change of address by the Head of Household for the offender filed with the USPS.
- 3. Alcohol abuse: pattern of abuse that interferes with the health, safety, or right to peaceful enjoyment of the premises by other tenants
 - a. Tenants --- On site --- Stipulation Agreement for a rehabilitation program and no further violations for two years.
 - b. Other Covered Persons --- On site --- Stipulation Agreement for the offender not to enter the Premises and no further violations from the unit for two years.
- 4. Violent Criminal Activity that interferes with the health, safety, or right to peaceful enjoyment of the Premises by other Tenants or Authority Personnel:
 - a. Head of Household --- On/Off site --- termination of tenancy.
 - b. Other Tenants --- On/Off site --- termination of tenancy.
 - c. Other Covered Persons
 - i. On site:
 - 1. With evidence that offender is residing in the unit --- Stipulation Agreement for the offender not to enter the Premises and no further violations from the unit for two years.

2. Without evidence that offender is residing in the unit --- certification to be signed by Head of Household must provide either A or B: (A) documentation of address for the offender; (B) change of address by the Head of Household for the offender filed with the USPS. Also, if charged within 500 feet of public housing, then Stipulation Agreement for offender not to enter the unit and no further violations from the unit for two years.

ii. Off site:

1. Certification to be signed by Head of Household must provide either A or B: (A) documentation of address for the offender; (B) change of address by the Head of Household for the offender filed with the USPS. Also, if charged within 500 feet of public housing, then Stipulation Agreement for offender not to enter the unit and no further violations from the unit for two years.

H. Protecting Resident Due Process Rights

1. Tenants shall be entitled to written notice of determination to terminate tenancy under this Policy. In accordance with the notice provisions described in the dwelling lease, a reasonable time shall be not less than five (5) days.
2. The Authority has a clear responsibility to protect the health and safety of all Tenants and will take appropriate action to do so. Any pattern of Criminal Activity will be construed to be a threat to the safety of other Tenants.
3. Tenants shall be afforded the following due process rights in the form an eviction hearing in the Superior Court of New Jersey:
 - a. To be represented by legal counsel at the Court hearing.
 - b. To cross examine any witnesses the Authority shall use to prosecute the eviction at the Court hearing.
 - c. To review, in advance of the Court hearing, any evidence the Authority intends to use to prosecute the eviction.

The Policy will be posted in the Authority's main office. In turn, the Authority will make copies available upon request.

I. Post Office Notification:

The Authority will notify the USPS when Tenant is evicted for Criminal Activity. The intent is to prevent the return of the former Tenant to the development to obtain mail.

J. Barring from Premises:

Any persons who have been evicted from the Authority for Criminal Activity shall be banned, under the Trespass and Ban Policy, from entering the Premises at any time for any reason. Should the remaining Household members of the unit from which the said person was evicted permit said person to come onto the Premises, they shall be subject to eviction.

K. Dissemination of Policy

1. The Authority shall make this Policy widely available. To do so, the Authority shall post a copy of the Policy on its website and in each management office. Additionally, the Authority shall make hard copies of this Policy available upon request.
2. The Authority shall provide a copy of this Policy to Tenants upon move-in and, again, during Recertification. Upon signing the Lease and as a condition thereof, Tenants must read the Policy and be provided with the ability to review same with an Authority employee in order to obtain the utmost clarity regarding its content.

By signing this document, the individuals named below have acknowledge that they have received a copy of this Policy, that they have had an opportunity to ask questions about this Policy, and that they agree to comply with the requirements of this Policy.

Date

Tenant (Head of Household):

Date

Tenant:

[ADDITIONAL SIGNATURE PAGE TO FOLLOW, IF NECESSARY]

Date

Tenant:

Date

Tenant:

Date

Tenant:

Date

Tenant: