

Appendix J:
Housing Authority of the City of Charlotte, NC
LIMITED ACCESS AND BANNING POLICY AND PROCEDURES

(Adopted by Board of Commissioners on _____)

WHEREAS, one of the missions of the Housing Authority of the City of Charlotte, N.C. (“the CHA”) is to provide safe, secure, and decent housing, to combat drug-related crime and other crimes within its developments, and to safeguard the quiet enjoyment of its property for its residents and employees; and

WHEREAS, the CHA has a significant interest in preventing the commission of crimes such as trespass, vandalism, illegal drug activity, and other harmful and improper behavior within and adjacent to its property; and

WHEREAS, the elimination from CHA property of persons who have no legitimate business on CHA property and/or who commit drug-related criminal activity or other harmful or improper behavior is a reasonable means to combat crime and safeguard the quiet enjoyment of its property; and

WHEREAS, the CHA desires to adopt a limited access and banning policy that effectuates its mission and interests while permitting constitutionally-protected expression;

NOW, THEREFORE, pursuant to the powers vested in the CHA pursuant to Section 157-9(c) of the North Carolina General Statutes, and in accordance with Sections 14-159.12 and 14-159.13(1) of the Criminal Code of North Carolina, the CHA hereby adopts the following “Limited Access and Banning Policy” (“the Banning Policy”) effective as of the date approved by the CHA Board of Commissioners:

Section 1. **Purpose. The CHA communities are for the exclusive use and enjoyment of CHA residents, members of their Households, and legitimate guests and visitors. All other persons will be regarded as trespassers subject to prosecution as allowed by state or municipal ordinance. The purpose of this Banning Policy is to limit access and use of CHA property to the persons who have no legal or legitimate reason to be on the premises. A person who does not have a specific legitimate purpose to be on CHA property shall not be permitted on the property.**

Section 2. **Application.** This Banning Policy applies to all public housing developments owned and/or managed by CHA, and applies retrospectively and prospectively to all tenants living in units within those developments.

Section 3. **Legitimate purpose.** The following persons are presumed to have a specific legitimate purpose on CHA property and are not subject to banning from CHA property, unless otherwise mandated by CHA policy or by law:

3.1. Invited guests of CHA tenants who are accessing the development within the scope of their invitation, and who have not committed any of the acts enumerated in Section 4 below;

3.3. CHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official PHA or law enforcement business on PHA property; and

3.4. Persons, not aforementioned, who are on CHA property with CHA express permission and who are not otherwise violating CHA policy or any state or federal law on the property.

In this regard, CHA shall develop procedures that ensure that constitutionally-protected expression and association are appropriately permitted.

Section 4. **Non-Legitimate purpose.** The following persons are presumed not to have a specific legitimate purpose on CHA property and are subject to temporary or permanent banning from CHA property:

4.1. All persons who are not CHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official CHA or law enforcement business, and also are not CHA tenants or the invited guest of CHA tenants,

4.2 All persons who commit the following acts on CHA property, whether or not they are included in the categories set forth in Section 3, above:

4.2.1. Assault, battery, arson, robbery, vandalism, malicious destruction of property, disturbing the peace, murder, manslaughter, rape, sexual assault, prostitution and/or the solicitation thereof, abduction, kidnapping, illegal gambling, harassment, stalking, violation of protective, restraining, or peace order, domestic violence, the attempt to commit any of the aforementioned crimes, or engaging in any other physical behavior that injures, or threatens to injure, the health of CHA

tenants, employees, commissioners, representatives, agents, contractors, any law enforcement official, or other member of the public;

4.2.2. Engaging in any illegal behavior involving illegal drugs and/or illegal drug paraphernalia, including, but not limited to, possession and/or distribution of said drugs and/or paraphernalia;

4.2.3. Engaging 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;

4.2.4. Public urination, public nuisance, and other disorderly, lewd or lascivious conduct on CHA property;

4.2.5. Damaging, destroying, vandalizing, defacing, or otherwise reducing the value of the real and/or personal property of the CHA, its employees, commissioners, representatives, agents, tenants, contractors, any law enforcement official, or other member of the public;

4.2.6. Remaining in an area for no obvious reason, e.g., hanging around on CHA property without legitimate business;

4.2.7. Significant littering on CHA property;

4.2.8. Engaging in any illegal behavior involving automobiles or other vehicles including, but not limited to, reckless driving, destruction, and theft;

4.2.9. Engaging in any apparent gang-related activity;

4.2.10. Theft of the personal property of the CHA and others;

4.2.11. Allowing a member of the Household, who is a minor child, to violate a curfew imposed by local law enforcement;

4.2.12. Any other behavior that substantially interferes with the right, comfort, convenience and/or safe and peaceful enjoyment of CHA property by CHA employees, commissioners, representatives, agents, tenants, contractors, any law enforcement official, or other member of the public.

The CHA specifically reserves the right to add or delete from the acts set forth above in this Section 4, as appropriate.

Section 5. **Exclusion and Banning.** Only the following designated persons are authorized to enforce this Policy by issuing a “Notice of Banning” pursuant to the terms and conditions of this Policy: CHA Community and Regional Property Managers; Resident Safety Department personnel; and Mecklenburg County law enforcement officers.

The following persons are automatically banned or excluded from the CHA premises:

5.1. **Terminated Criminal Tenant.** Any tenant who engages in drug-related and/or violent criminal activity, and whose Lease is terminated by the CHA through the issuance of a “Notice of Lease Termination” letter; and

5.2 **Non-tenant Without a Specific Purpose for Being on CHA premises.** Any non-tenant (a person other than those listed on a CHA Lease) *with no specific legitimate purpose* for being on CHA property are not permitted on CHA property. Whether a non-tenant has a specific legitimate purpose to be on any particular CHA property shall be determined by the CHA, as defined by the terms of this Banning Policy and the CHA’s procedures.

Any person who desires access to any CHA development, including any person located on or in the buildings, walk ways, grasses, playgrounds, parking lots, drives and other common areas of any CHA development, will be required by any law enforcement or CHA personnel to identify himself or herself by showing appropriate written identification, and to prove a specific legitimate purpose to be on the development premises when asked to do so. All other non-tenants determined to be without a specific legitimate purpose for being on the CHA property shall be asked to leave the property immediately, and may be issued a written “Notice of Banning” in accordance with these procedures.

5.3 **The “Notice of Banning”.** Banned persons shall be provided written notice of their banning through the issuance of a “Notice of Banning” in accordance with CHA procedures. The Notice shall advise that he/she will be trespassing if he/she returns to CHA property; will state the reasons for denying entry; and will reference appropriate grievance procedures. The duration of the ban is within the discretion of the CHA. The CHA shall enforce this Banning Policy uniformly and in accordance with CHA procedures. In the event that a Notice form is not readily available at the time of the banning, a verbal notification will be given and a written Notice form will thereafter be issued within 24 hours of the issuing of the verbal Notice. Said written Notice shall be mailed to the address

previously provided to CHA or law enforcement personnel at the time of the issuance of the verbal Notice.

5.4 Tenant Notice. In the event the banned person is listed as a Household member on a CHA Lease, or is a friend, guest, or otherwise connected with a CHA tenant, the CHA shall provide a copy of the Notice of Banning to the Head of Household advising the Head of Household that said Household member has been banned from CHA property. Said Notice shall state the duration of the ban, as well as the possible penalties (including eviction of the entire family) if the Head of Household and/or any other family member fails to cooperate with the terms of the Notice.

5.5 Emergencies. In extraordinary circumstances involving an emergency or other unusual circumstance, for good cause shown, the CHA Resident Safety Manager, in his/her discretion, may decide to dispense with any or all notice requirements of the "Limited Access and Banning Policy".

Section 6. The "Banned Persons" List. In accordance with its procedures, the CHA, in cooperation with law enforcement, shall maintain and monthly update the list of persons who have been banned from CHA property. Copies of the "Banned Persons" list shall be posted conspicuously for public viewing at the management office or other appropriate place within each housing community, and all residents shall be informed of the location of the list. All pertinent CHA staff shall receive copies of the initial and updated list, as shall law enforcement.

Section 7. Enforcement/Law Enforcement. The CHA shall enforce this "Limited Access and Banning Policy" consistent with the criminal trespass provisions of N.C. G.S. 14-159.13, and in accordance with CHA procedures. The CHA has entered into a Memorandum of Understanding ("MOU") with the Charlotte-Mecklenburg Police Department ("CMPD") regarding each party's responsibilities with regard to the enforcement of this Banning Policy. The MOU, among other things, authorizes CMPD officers to make inquiries of persons on CHA property and to inform any person without specific legitimate business that he/she may be subject to arrest for trespassing if they remain on CHA property. Pursuant to N.C.G.S. 14-159.13, any sworn officer with CMPD shall be authorized to arrest and remove all banned persons who have returned to CHA property in violation of this Banning Policy.

Section 8. Procedure for Appeal of a "Notice of Banning" Immediately After Issuance.

A person being banned or any interested resident shall have the right to appeal the issuance of a "Notice of Banning". The appeal must be in writing and be delivered to the Resident Safety Manager within ten (10) business days of the issuance of the Notice. An appeal hearing will be conducted on a monthly basis at a site determined by the Resident Safety Manager. The appeal hearing will be conducted by a neutral third party to determine if good cause existed to issue the Notice. The hearing officer shall have the discretion to continue the Notice, lift the Notice immediately, or maintain the Notice for a pre-determined period of time.

Section 9. **Training and Accountability** The CHA shall train all housing managers and other pertinent personnel, and the CMPD officers on the proper implementation of this Banning Policy so that the Banning Policy is carried out thoroughly and uniformly. The CHA Resident Safety Manager will coordinate the training and oversee all banning pursuant to this Banning Policy. The Resident Safety Manager shall maintain records of all banned persons, "Banning Policy" notices issued, and the "Banned Persons" list, and shall purge names from the "Banned Persons" list as appropriate. When required, the Resident Safety Manager shall appear in court proceedings related to the enforcement of issued bans. To the extent practicable, "read only" copies of the "Banned Persons" list shall be maintained and disseminated among CHA staff and law enforcement via computer, with appropriate confidentiality safeguards in place.

Section 10. **Communication and Advertisement**. The CHA shall develop and disseminate appropriate brochures, flyers, "no trespassing" signage, and/or other methods to communicate the terms of this Banning Policy to CHA residents and non-residents who enter CHA property.

Section 11. **Tenant Leases**. A tenant's assistance in the violation of this Banning Policy by another tenant, or by a non-resident, shall constitute a material Lease violation, the penalty of which may include eviction. This Policy shall be incorporated, through appropriate language, in all tenant Leases or addendums, in accordance with the notice and comment procedures and other legal requirements.

Section 12. **No Waiver of Rights or Options**. Nothing in this Banning Policy is intended to waive, replace, supersede, or otherwise limit the CHA's ability to exercise any and all other rights or options available to it by law. A decision by any employee of the CHA in one circumstance relating to one person shall not constitute a waiver of the CHA's rights or options under this Banning Policy relating to another person.

Section 13. . **Removal from the “Banned Persons” List.** Persons who are banned from the CHA property, and who do not appeal the “Notice of Banning” within the specified ten (10) business days described above in Section 8 of this Policy, will be banned from CHA properties for a minimum period of time, dependent upon the reason(s) given by the CHA for issuing the Notice. For those persons who are banned from the CHA property and who do appeal the Notice within ten (10) business days, those persons will continue to be considered to be persons who are banned from the CHA property until such time as the Notice is overturned upon appeal. Appeal hearings will be scheduled within ten (10) business days of CHA’s receipt of request. 13.1. For offenses that are related to felonious drug offenses, violent criminal offenses, or other serious crimes affecting the overall safety of the community (such as child molestation and crimes against the elderly), the Notice of Banning will be in effect for a minimum of three (3) years before an individual can become eligible to appeal the Notice of Banning. In addition, the individual must not have committed any drug-related or violent crimes during this time frame, either on or off CHA property. During the three-year period, any arrest for violating the provisions of the Notice by trespassing on CHA property will also disqualify the individual from being eligible to have an appeal hearing.

13.2. For all other offenses, generally considered misdemeanors in a criminal court, the period of banning will be a minimum of one (1) year before the Notice of Banning can be appealed. Possession of drug paraphernalia, while a drug-related offense, will fall into this category if the original Notice was for drug paraphernalia only, and not for felony drug possession or use. The person must have not committed any drug-related or violent crimes during the one-year time frame, either on or off CHA property. During the one-year period, any arrest for violating the provisions of the Notice by trespassing on CHA property will also disqualify the individual from being eligible for an appeal hearing.

If a person is found to be eligible to have an appeal hearing based upon the criteria above, then a “Notice of Banning Appeal Hearing” with a neutral third party person will be scheduled by the Resident Safety Manager. It will be the responsibility of the person requesting that the Notice of Banning be lifted to furnish the hearing officer with any documentation related to his/her appeal that may reflect favorably on their appeal. CHA employees, CHA residents, and law enforcement officers may be called to testify on the behalf of the CHA to present evidence on why the Notice should stay in effect. If the hearing officer decides that there is no good cause to continue the Notice and that the banned individual no longer represents a danger to CHA communities, then the

Notice of Banning can be lifted immediately and a letter issued to the banned person allowing him/her entry onto CHA properties without criminal reprisals.

Section 14. **Purging of the “Banned Persons” List.** The CHA may purge the “Banned Persons” list at any time at which the CHA determines that purging the list would enable the CHA to better administer this “Limited Access and Banning Policy.”

Section 15. **Door-To-Door Sales Solicitations.** Under no circumstances does the CHA allow non-CHA resident door-to-door sales solicitations in person, or through the use of notices or flyers on CHA property. Persons who attempt to conduct door-to-door sales at CHA housing developments are subject to the CHA’s Limited Access and Banning Policy as described above.

If a CHA resident desires to distribute other types of notices or flyers in his or her development, the resident must provide the development’s property manager with a copy of the proposed notice or flyer and obtain advance approval of his or her property manager. A resident distributing such notices or flyers must ensure that the notices or flyers do not become litter or otherwise disrupt the peaceful use and enjoyment of the development by other residents.