



2016

SC REGIONAL HOUSING AUTHORITY'S (PHA)
BAN POLICY AND APPEALS PROCEDURE

I. PURPOSE:

Pursuant to the authority set forth in federal and state law, this policy and procedure is adopted to establish, implement and enforce a written policy and procedure to ban person from properties owned or managed by SC Regional Housing Authority No. 3 (hereinafter "PHA"), which person threaten the safety, health or right to peaceful enjoyment of residents, visitors or guests of residents, or PHA employees or agents on properties owned or managed by PHA or PHA staff. The Board of commissioners of PHA finds and declares that drug-related activities and crimes of violence have occurred on properties owned or managed by PHA which have threatened and may continue to threaten the safety, health and right to peaceful enjoyment of residents, visitors or guests of residents and PHA employees and agents.

II. SCOPE:

By its adoption of this policy and procedure, the Board of Commissioners of PHA hereby delegates enforcement of this policy and procedure to its Community Safety Team. The Community Safety Team shall consist of a Community Safety Team Leader (the Executive Director of PHA or his/her designee); all Department Heads of PHA; and the On Site Property Managers and Resident Managers. Any member of the community Safety Team may consult with law enforcement officers to implement and enforce this policy and procedure. Other persons and/or departments may be consulted to insure consistent application of policy and procedure.

III. GENERAL POLICY:

Residents are required to abide by the terms and conditions of their lease. Residents have the responsibility to insure that their household members and their guests or visitors comply with the terms and conditions of the lease. If it is determined that a resident, household member, or visitor or guest of a resident or another person poses a threat to the safety, health or right to peaceful enjoyment of residents, household members, or visitors or guests of residents or PHA employees or agents, any member of the Community Safety Team may investigate and coordinate compliance and enforcement efforts.

IV. WHAT CONSTITUTES BEING BANNED?

The following persons, based upon circumstances described hereinafter, may be banned from properties owned or managed by PHA:

A A Visitor/Guest of a resident may be banned from property owned or managed by PHA, if:

1. he/she is charged with or convicted of a drug-related crime or other proscribed crime; or



2. there is competent, material and substantial evidence that he/she is engaged in an activity or activities which would constitute a drug-related crime or other proscribed crime; or
3. he/she is engaged in any other activity which threatens the health or safety of residents, household members, visitors or guests of residents or PHA employees or agents or which threatens the right of a resident to peaceful enjoyment of his/her tenancy; or
4. he/she is engaged in any activity which obstructs or interferes with the performance of their duties by any PHA employee or agent.

B. **A Non-resident** is someone who is not a resident, a household member or a visitor or guest of a resident of property owned or managed by PHA, or who is not on the property to conduct legitimate business with a resident or household member or on behalf of PHA. Such persons may be banned from all property owned or managed by PHA if:

1. he/she is charged with or convicted of a drug-related crime or other proscribed crime; or
2. there is competent, material and substantial evidence that he/she is engaged in an activity or activities which would constitute a drug-related crime or other proscribed crime; or
3. he/she is engaged in any other activity which threatens the health or safety or residents, household members, visitors or guests of residents or PHA employees or agents or which threatens the right of a resident to peaceful enjoyment of his/her tenancy; or
4. he/she is engaged in any activity which obstructs or interferes with the performance of their duties by any PHA employee or agent.

V. **DRUG-RELATED CRIMES; OTHER PROSCRIBED CRIMES:**

A. **Drug-Related Crimes:**

The illegal manufacture, sale or delivery or the possession with intent to manufacture, sell or deliver, or the possession or use of a controlled substance, as defined by South Carolina General Statutes.

B. **Other Proscribed Crimes:**

Murder, manslaughter, rape, sexual offense, statutory rape, assault, kidnapping, abduction, malicious injury or damage by use of explosive or incendiary device or material, burglary, breaking or entering, arson or other burnings, larceny, robbery, domestic criminal trespass, sexual exploitation of a minor, cyberstalking, prostitution, solicitation of prostitution, loitering for the purpose of engaging in prostitution, offenses against the public peace, gambling, concealment of a deadly weapon without a permit, or public nuisance or any attempt to commit any of the above-listed crimes or aiding in or abetting the above-listed crimes, as such crimes are defined in the South Carolina General Statutes.



VI. AUTHORIZATION:

Any member of the Community Safety Team is authorized to recommend the banning of persons from properties owned or managed by PHA.

VII. BANNING PROCEDURE:

- A. Once a person is identified as being engaged in the acts or activities for which he or she may be banned, anyone on the Community Safety Team in conjunction with the local police department may proceed with the issuance of a No Trespass Notice to the affected person. Notice to the person shall be delivered to the person if they are on the property or return to the property. If the person is a visitor/guest of a resident, notice shall also be provided to the resident. The notice shall state the reason for the person being banned from property owned or managed by PHA. The notice shall state that the person will be subject to arrest for trespassing if they do not adhere to the Trespass Notice
- B. The name of the person banned will be added to the Ban List maintained by the Property Manager. The Ban List shall be posted in the offices located on each property owned or managed by PHA.

VIII. THE BAN LIST:

- A. The Ban List shall be maintained by the Property Manager. The listing shall include name of the person being banned, effective date of the ban, and any limitations or exceptions on the ban.
- B. The Ban List shall be posted in the office located on each property owned or managed by PHA.
- C. Appropriate PHA staff shall also inform new residents of the existence of the PHA Ban Policy and Appeals Procedure and the Ban List as a part of new resident orientation.

IX. HOW LONG DOES NAME REMAIN ON BAN LIST:

- A. Persons placed on the Ban List may file a written appeal for removal from the Ban List at any time after the ban commenced.
- B. If the person placed on the Ban List is not removed from the Ban List pursuant to the appeal process, the duration that they will remain on the list will be determined by the local police department.



X. PROCEDURE FOR APPEAL OF BAN:

- A. A person placed on the Ban List and any resident affected by the placement of the person on the Ban List shall have the right to appeal the issuance of a ban. The request for appeal must be made in writing and must be delivered to the office of the Property Manager, within ten (10) days after the date of notification of the ban. A person on the ban list may enter the PHA administrative offices solely for the purpose of delivering his/her appeal.
- B. The Property Manager shall schedule a hearing within ten (10) working days of the notice of appeal. Continuances requested by any party to the hearing may be granted by the Property Manager for good cause shown.
- C. The appeal process shall follow the same procedures as that for the Grievance Procedure for residents. The Hearing Panel (which shall consist of the Community Safety Team) considering grievances under that policy shall be referred to as the Appeal hearing Team for the purposes of this policy.
- D. In considering the request for removal from the Ban List, the Appeal Hearing Team may consider the following:
 - 1. Evidence presented by the Property Manager regarding the reason(s) for placing the person on the Ban List.
 - 2. Evidence presented by any resident affected by the ban.
 - 3. Evidence of dismissal of criminal charges.
 - 4. Evidence of completion of sentencing, probation or community service requirements.
 - 5. Evidence concerning the banned person's rehabilitation from the activities or acts for which he/she was banned.
 - 6. Evidence as to whether or not the person continues to engage in activities for which he/she may be banned.

Evidence may be in the form of testimony in person by sworn affidavit or in the form of documentary evidence.

- E. The Appeal Hearing Team shall determine whether or not good cause existed or still exists to ban the person based upon the evidence presented at the hearing. If the Appeal Hearing Team determines that good cause for the ban exists and the ban was issued appropriately, the ban shall remain in effect.



If the Appeal Hearing Team determines that a limited ban is more appropriate in any case where a complete ban was issued, the Team shall state the specific limitation of the ban, which would be effective immediately.

If the Appeal hearing Team determines that good cause for the ban did not or does not exist and the ban should not have been issued or should be lifted, the ban shall be lifted immediately with the name of the banned person being removed from the Ban List within three (3) business days of the date of the decision. The banned person shall be so advised at that time.

- F. Following their review, the Appeal Hearing Team shall state their decision orally at the conclusion of the hearing, and shall also provide thereafter a written decision to the person making the appeal. Reasons for the decision shall be included. The written decision shall be placed in the PHA files and a copy shall be mailed or delivered by hand delivery to the banned person at his/her last known address.
- G. If the Appeal Hearing Team determines that the person shall remain on the Ban List, that person may not submit a subsequent appeal until at least twelve (12) months after the date of the decision of the Appeal Hearing Team.