



LIMITED ACCESS AND BARRING POLICY

June 2017

Limited Access and Barring Policy

WHEREAS, the Portsmouth Housing Authority's mission, pursuant to the terms of its lease agreement and state and federal law, is to provide safe, secure, and decent housing, to combat drug-related and other crime within its developments, and to safeguard the quiet enjoyment of its property for its residents and employees, and

WHEREAS, the Portsmouth Housing Authority has a significant interest to prevent the commission of trespass, vandalism, criminal, drug-related and other harmful and improper behavior within and adjacent to its property, and

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

WHEREAS, the Portsmouth Housing Authority desires to adopt a limited access and barring policy that effectuates its mission and interests while permitting constitutionally protected expression.

NOW THEREFORE, pursuant to the powers vested in the Portsmouth Housing Authority pursuant to Section 203 of the *Housing Authorities Law* under the State of New Hampshire, and in accordance with Section 635:2 of Title LXII, *Criminal Code, Unauthorized Entries* under the State of New Hampshire hereby adopts the following Limited Access and Barring Policy (the Policy) effective the date approved by the Portsmouth Housing Authority Board of Commissioners:

Section 1 - Purpose The Portsmouth Housing Authority developments are for the exclusive use and enjoyment of Portsmouth Housing Authority employees, Portsmouth Housing Authority residents and members of their households, Portsmouth Housing Authority resident guests and visitors (as defined under their lease) and such other persons who have legitimate business on the premises. All other persons will be regarded as trespassers subject to prosecution as allowed by state or municipal ordinance. The purpose of this Policy is to limit access and use of Portsmouth Housing Authority property to the persons listed in the first sentence of this Section 1. A person who does not have a specific legitimate purpose to be on Portsmouth Housing Authority property shall not be permitted on the property.

Section 2 - Application This policy applies to all housing developments owned and/or managed by the Portsmouth Housing Authority, 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 Portsmouth Housing Authority property and are not subject to Barment for the Portsmouth Housing Authority, unless otherwise mandated by Portsmouth Housing Authority policy or by law:

3.1 Invited guests of the Portsmouth Housing Authority 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 Portsmouth Housing Authority employees, commissioners, representative, agents , contractors, and law enforcement officials carrying out official Portsmouth Housing Authority or law enforcement business on Portsmouth Housing Authority property; and

3.4 Persons, not aforementioned, who are on Portsmouth Housing Authority property with Portsmouth Housing Authority's express permission and who are not otherwise violating Portsmouth Housing Authority policy or law on the property.

Section 4 - Non-Legitimate purpose The following persons are presumed not to have specific legitimate purpose on Portsmouth Housing Authority property and are subject to temporary or permanent Barment from Portsmouth Housing Authority property.

4.1 All persons who are not Portsmouth Housing Authority employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official Portsmouth Housing Authority or law enforcement business, and also are not Portsmouth Housing Authority tenants or invited guests of Portsmouth Housing Authority tenants;

4.2 All persons who commit the following acts on or within 1000 feet of Portsmouth Housing Authority 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 solicitation thereof, abduction, kidnapping, illegal gambling, harassment, stalking, violation of protective, restraining, or peace order, domestic violence , the commission of any crime set forth under the State of New Hampshire criminal code, the attempt to commit any of the aforementioned crimes, or engaging in any other behavior that injures, or threatens to injure, the health of Portsmouth Housing Authority 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 Portsmouth Housing Authority property;

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

4.2.6. Loitering, or otherwise failing to have any legitimate business, on Portsmouth Housing Authority property;

4.2.7. Significant littering on Portsmouth Housing Authority property;

4.2.8. Engaging in any illegal behavior on Portsmouth Housing Authority property involving automobiles or other vehicles including, but not limited to, reckless driving, destruction, operation of a motor vehicle after revocation, destruction, and theft;

4.2.9. Engaging 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, Portsmouth Housing Authority tenants, Portsmouth Housing Authority employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official Portsmouth Housing Authority or law enforcement business;

4.2.10. Theft of property of the Portsmouth Housing Authority, its employees, commissioners, representatives, agents, tenants, contractors, any law enforcement official, or other member of the public;

4.2.11. A minor child's violation of any local, state, or national curfew;

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

Portsmouth Housing Authority reserves the right to add or delete from the acts set forth in Section 4, as appropriate.

Section 5 - Exclusion and Barment.

5.1. Non-tenants Only non-tenants (persons other than those listed on the lease) with a specific legitimate purpose for being on Portsmouth Housing Authority property are permitted on the property. Whether a non-tenant has a specific legitimate purpose to be on any particular Portsmouth Housing Authority property shall be determined by the Portsmouth Housing Authority, as confined by the terms of this Policy and Portsmouth Housing Authority's procedures. Any person who desires access to any Portsmouth Housing Authority development, including any person located on or in the buildings, walks, ways, grasses, playgrounds, parking lots, drives and other common areas of any Portsmouth Housing Authority development, will be required by any law enforcement or Portsmouth Housing Authority personnel to identify himself or herself by showing appropriate written identification, and to prove specific legitimate purpose to be on the development premises. Persons determined to be without specific legitimate purpose on Portsmouth Housing Authority property shall be asked to leave the property immediately, and shall be issued an appropriate "Trespass Warning" in accordance with Portsmouth Housing Authority procedures. Warned persons who return to the property without a specific legitimate purpose are subject to temporary or permanent Barment from the property.

5.2. Barment Notice The Portsmouth Housing Authority shall use its best efforts to provide a Barment Notice (the "Barment Notice") to all barred persons. Except in special circumstances, no initial temporary Barment period shall exceed a period of one (1) year. Among other things, the Barment Notice shall advise the person:

1. That he/she will be trespassing if he/she knowingly returns to Portsmouth Housing Authority property; and
2. The time period that the Barment is effective,

The duration of the Barment shall be for a period of one (1) year unless otherwise extended in special circumstances. The Portsmouth Housing Authority shall make its best efforts to enforce this Policy, and levy Barment durations, uniformly and in accordance with Portsmouth Housing Authority procedures.

5.4. Tenant Notice.In the event that the barred person is a household member, family member, friend, guest, or otherwise is connected with a Portsmouth Housing Authority tenant, the Portsmouth Housing Authority shall provide written notice to the tenant that said person has been barred from Portsmouth Housing Authority property and shall state the duration of the Barment, as well as the possible penalties for the tenant's failure to cooperate with the Barment, which may include eviction.

5.5. Emergencies In extraordinary circumstances involving an emergency or other unusual circumstances, the Portsmouth Housing Authority Executive Director, in his/her discretion, may decide to dispense with any or all notice requirements of this Policy.

Section 6 - Barment Lists The Portsmouth Housing Authority shall maintain and regularly update a list of persons who have been issued Barment Notices (the Barment List). The Barment List shall be posted conspicuously for public viewing at the management office or other appropriate place within the development. All pertinent Portsmouth Housing Authority staff shall receive copies of the initial and updated Bar Lists, as shall law enforcement.

6.1. A Portsmouth Housing Authority tenant in good standing may file a grievance, in writing to Portsmouth Housing Authority, Attn: Trespass coordinator 245 Middle Street, Portsmouth, NH 03801, and request a hearing to contest the barred persons inclusion on the Barment List.

Section 7 - Enforcement/Law Enforcement Portsmouth Housing Authority shall enforce this Policy consistent with the criminal trespass provisions of the New Hampshire Criminal Code and City of Portsmouth trespass ordinance, and in accordance with Portsmouth Housing Authority policies and procedures, which may be updated from time to time. Pursuant to State of New Hampshire Law and Portsmouth Police Ordinances the Portsmouth Police Department shall be authorized to arrest and remove all barred persons who have returned to Portsmouth Housing Authority property in violation of this Policy.

Section 8 - Training and Accountability Portsmouth Housing Authority shall take reasonable steps to train all housing managers and other pertinent personnel, and the law enforcement agency, if possible, on the proper implementation of this Policy so that the Policy is carried out thoroughly and uniformly. The Portsmouth Housing Authority Executive Director shall appoint a Portsmouth Housing Authority staff member to coordinate and oversee all barring pursuant to this Policy, the Trespass Coordinator shall make recommendations to the Executive Director as to updates and/or changes to this Policy. The Trespass Coordinator further shall maintain records of all Trespass Warnings, Barment Notices, and Bar Lists, shall, on a monthly basis purge names from the Bar Lists as appropriate. To the extent practicable, "read only" copies of Trespass Warnings, Barment Notices, and Barment Lists shall be maintained and disseminated among Portsmouth Housing Authority staff and law enforcement via computer, with appropriate confidentiality safeguards in place.

Section 9 - Tenant Leases A tenant's assistance in the violation of this Policy by another tenant, or by a non-tenant, 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 notice and comment procedures and other legal requirements.

Section 10 Nothing in this Policy is intended to waive, replace, supersede, or otherwise limit Portsmouth Housing Authority's ability to exercise any and all rights or options available to it by law. A decision by any employee of Portsmouth Housing Authority in one circumstance relating to one person shall not constitute a waiver of Portsmouth Housing Authority's rights or opinions under this Policy relating to another person.

Section 11 - Solicitation In no case does Portsmouth Housing Authority allow door-to-door sales solicitations in person, or through the use of notices or flyers. If a resident desires to distribute other types of notices or flyers in his or her development, the resident must provide the development's housing manager with a copy of the proposed notice or flyer and obtain advance approval of the housing manager. (NOTE: Portsmouth Housing Authority should keep in mind the requirements of 24 CFR 115 regarding protected resident activities). A resident may not distribute a notice or flyer before 9:00 a.m. or after 8:00 p.m. Under no circumstances may a notice or flyer be left in plain view of a resident's door or unit if a resident of the unit does not want the notice or flyer, is not at home, or declines to answer the door. A resident distributing such notices or flyers must insure that the notices or flyers do not become litter or otherwise disrupt the peaceful use and enjoyment of the development by other residents.

Section 12 - Tenant notification of policy A copy of this Barment Policy shall be provided to each applicant upon signing a lease with the Portsmouth Housing Authority.