

Wildwood Housing Authority
“One Strike & You’re Out Policy”
Adopted:08/25/21

Assures that:

1. Public housing residents and their guests that engage in drug and other criminal activity will face certain and swift eviction.
2. Potential public housing residents who engage in drug and other criminal activity will be denied public housing as well as those persons who live in the offending tenant’s household.
3. Public housing residents and their guests who engage in alcohol related abuse to the extent that it interferes with health, safety and/or the right of other public housing residents, tenants and neighbors to have peaceful enjoyment of the premises will face certain and swift eviction.
4. Public housing residents, tenants and their neighbors will be free from threats to their personal and family safety.

A. The Guiding Principles of the Policy

1. All individuals whether or not residents of an assisted housing unit or complex have the right to live in peace and be free from fear, intimidation and abuse.
2. Because of the extraordinary demand, affordable public housing should be awarded to responsible individuals.
3. Because those who engage in criminal, alcohol, or drug related activities are often members of the household, all residents should remain under scrutiny in order to deter illegal activity by all residents, their guests or any person under the tenant’s control instead of only the head of the household.

B. Implementation of the Policy

1. All persons currently living in one of the Authority buildings and all members of their household must be advised of the One Strike Policy at the time that any lease is executed or amended. This should be accomplished as follows:

- a) By assuring that the lease or agreement provided to tenants contains references to this One Strike Policy and specifies that those persons engaged in criminal or drug or alcohol related activities will be evicted. The lease and/or lease addendum must also provide that the resident will be evicted if criminal activity is engaged in by the tenant either on or off such premises. Tenancy will also be terminated if a guest, visitor, member of the tenant's household or any other person under the tenant's control engages in criminal activity while on or at the leased premises.
 - b) By having each head of the household and each member of the household of 16 years of age or older acknowledge, in writing, their understanding of the One Strike Policy. This should be accomplished by having each resident execute the form attached hereto as Exhibit "A".
 - c) By posting signs in conspicuous locations at housing authority offices describing the nature and effect of the One Strike Policy in the form attached hereto as Exhibit "B".
2. A copy of this policy may be provided to the Judge of the Superior Court of New Jersey, Law Division who presides over the Cape May County landlord/tenant Court. A copy of this policy may also be provided to the City of Wildwood police chief, as well as to the Adult Probation Department, the City of Wildwood Prosecutor, the Cape May County Prosecutor, the Cape May Department of Corrections, and Judge of the Wildwood Municipal Court. The Authority may also attempt to communicate with the recipients of copies of this policy to explain the purpose of the policy and to request their assistance with the implementation of this policy as it is recognized that this policy can only deter criminal behavior if there is a common understanding of the policy and cooperative enforcement effort by all those involved in effectuating this policy.

C. Prohibited Activities/Reasons for Denial or Termination

1. The following is a list of prohibited activities. This list is intended to offer guidelines as to prohibited conduct. Specific causes for denial/termination follow the list of prohibited activities. Determinations shall be made on a case by case basis and based upon the best evidence available to the Authority. The individual's propensity to commit crime, engage in criminal behavior, engage in the illegal use of a controlled substance, or abuse alcohol may be considered based upon the individual's history.

Generally, no one shall pose a threat to the life, health, safety or peaceful enjoyment of the residents and neighbors. This applies to the tenants, members of their household, guests, and persons over whom the tenant has control. Such prohibited activities include, but are not limited to the following:

- a. Crimes against property such as burglary, larceny, and robbery;
 - b. Violent crimes such as murder, accessory to murder, battery, and assault;
 - c. Crimes that impose a financial hardship such as vandalism, arson, and malicious mischief;
 - d. Crimes that disturb the peace such as nuisance, loitering, prostitution, excessive noise, fighting, harassment, and child abandonment;
 - e. Drug-related criminal activity such as the sale, manufacture, possession, or use of illegal controlled substances, or the illegal sale, possession, or use of other controlled substances not in accordance the prescribed use of the substance; and
 - f. Alcohol-related abuse.
2. All instances related to drug and alcohol activity, the Authority shall consider rehabilitation in determining whether to deny admission or terminate tenancy to any person. The Authority shall consider whether such person:
- a. Has successfully completed a supervised drug and alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abusing alcohol (as applicable); or
 - b. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abusing alcohol (as applicable); or
 - c. Is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abusing alcohol (as applicable).

3. The Authority shall provide the applicant or resident the opportunity to exclude a household member in order to be admitted to the housing program (or continue to reside in the assisted unit), where the household member has participated in or been culpable for action or failure to act that warrants denial (or termination).
4. The Authority shall request and obtain information regarding applicants from drug treatment facilities in accordance with federal regulations.
5. Prior to the Authority denying admission to any program on the basis of a criminal record, the Authority must notify the household of the proposed action to be based on the information. The Authority must provide the subject of the record and the applicant with a copy of the criminal record and an opportunity to dispute the action in accordance with Section D.
6. For the purposes of this policy, covered person shall mean a tenant, any member of the tenant's household, a guest, or other person under the tenant's control.
7. For the purposes of this policy, the Authority shall determine 3 years as the period of time which an applicant must not have engaged in prohibited activities.
8. For the purposes of this policy, the term "currently engaging in" shall mean that the person has engaged in the behavior recently enough to justify reasonable belief that the behavior is current.
9. When the Authority evicts an individual or family for criminal activity, it must notify the local post office that serves the dwelling unit in which the individual or family is no longer residing.
10. The Authority must perform sufficient screening to determine that the behavior of the family is suitable for tenancy. The Authority MAY prohibit admission if it is not satisfied with the applicant's screening, which includes, but not limited to, the following.
 - a. An applicant's past performance in meeting financial obligations, especially rent.
 - b. A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants; and

- c. A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.
11. The Authority MUST prohibit admission for the following reasons:
- a. Three (3) years from the date of eviction from federally assisted housing for drug- related criminal activity.
 - (1) The Authority may admit the household if it determines:
 - i. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the Authority; or
 - ii. The circumstances leading to the eviction no longer exist.
 - b. The Authority determines that any household member is currently engaging in illegal drug use. For the purposes of this policy, “currently engaging in” shall mean “that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual’s behavior is current.”
 - c. The Authority has reasonable cause to believe that a household member’s illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
 - d. The Authority must permanently prohibit admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
 - e. The Authority must prohibit admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. The Authority must perform necessary criminal history background checks in New Jersey and in any other State where the household members are known to have resided

- f. The Authority must prohibit admission if it has reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the enjoyment of the premises by other residents.
12. The Authority **MUST** terminate the tenancy of any Public Housing resident, in accordance with the provisions of the Public Housing lease, who engages in the following drug related or criminal activity.
- a. If the Authority determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
13. The Authority **MAY** terminate tenancy, in accordance with the lease, of a Public Housing resident under the following circumstances.
- a. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or is a high misdemeanor, or violating a condition of probation or parole imposed under Federal or State law.
 - b. The Authority may evict the tenant by judicial action for criminal activity if it determines that the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.
 - c. The Authority may evict a family when it determines that a household member is illegally using a drug or when it determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
 - d. Drug related criminal activity engaged in, on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control, is grounds for the Authority to terminate tenancy.
 - e. Any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, including

the Authority's management, or threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

- f. If the Authority determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.
- g. Furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

D. Determination of Violations: Evictions of Persons Who Violate One Strike Policy

1. **PRELIMINARY INITIAL DETERMINATION:** A preliminary initial determination of a violation of the One Strike Policy and thus, a determination of termination for a tenant shall be made by a WHA staff person having responsibility for the applicant or tenant and shall be based upon the evidence available to the Authority.
2. **APPEAL BY APPLICANT OR TENANT:** If a tenant files a request with the Authority within ten (10) days, the Authority shall schedule the matter for an informal hearing within ten (10) days of receipt of the tenant's request for an informal hearing. The tenant shall be given written notice of the date, time and location for the informal hearing at least five (5) days prior to the date of the informal hearing. Further, said notice shall also state that the tenant may be represented by any person, including an attorney of their choice, at the hearing but that the applicant or tenant must still appear at the informal hearing.
3. **INFORMAL HEARING:** The informal hearing shall be conducted by the designated Hearing Officer for the Authority. As this hearing will be an informal one, the rules of the Superior Court of New Jersey will not be applicable. During the hearing, the Authority and/or the Authority's legal counsel shall present the evidence relied upon by it in making its initial determination which supports its initial determination that there was a violation of the One Strike Policy. Such evidence may include but is not limited to testimony from law enforcement officials, probation officers, parole officers, Authority employees, landlords, local service employees relied upon by the Authority, news reports and stories that support the Authority initial determination. Such testimony may be live or sworn written testimony. The tenant or their attorney or other representative may present evidence in order to dispute or mitigate the Authority's evidence. Further, the tenant

or their attorney will have the opportunity to question the Authority's witnesses and likewise the Authority will have the opportunity to question the applicants or tenant's witness.

4. **NOTICE OF FINAL DETERMINATION:** If the determination at an informal hearing is affirmed or if no informal hearing is requested, Within five (5) days of the informal hearing deadline, the Authority shall mail by ordinary mail and certified mail, return receipt requested, or hand deliver, a Notice of Final Determination to the tenant. The Notice shall state the reason for the Authority's final determination and specify the evidence relied upon. If the final determination is that the One Strike Policy was violated and thus, the tenancy terminated, the Authority shall specify the date when the Authority's residency will cease. The date that the Authority terminates will be at least 30 days from the date of the tenant's receipt of the final determination

5. **APPEAL TO THE EXECUTIVE DIRECTOR:** If the Notice of Final Determination states that the Authority finds the One Strike Policy was violated and that thus, the tenancy will be terminated, the Notice shall also state that the tenant may request an appeal of the Final Determination to the Executive Director of the Authority. The Notice shall state that the tenant's request for an appeal shall be in writing and received by the Authority within ten (10) days after the tenant's receipt of the Notice of Final Determination. The request for appeal to the Executive Director shall not operate to stop the running of the thirty (30) days from the date of the final determination upon which the residency will be terminated as stated herein.

Upon the Executive Director's receipt of the request for appeal, the Executive Director will review the evidence from the informal hearing and will make a determination to either uphold the Final Determination or reverse it. The tenant will then be notified of the Executive Director's decision by ordinary mail and certified mail, return receipt requested.

6. **NOTICE OF TERMINATION OF LEASE:** If the Authority determines that there has been a violation of the One Strike Policy by the resident or a member of the resident's household and thus, the resident should be evicted, the Authority shall, within five (5) days of making such a determination, provide a written notice of termination of lease to the resident. The notice of termination shall be mailed to the resident by certified mail, return receipt requested and ordinary mail. In the alternative, the notice may be personally served or personally delivered to the resident or member of the resident's household provided that the resident or member of the resident's household acknowledges receipt of the notice in writing or the Authority employee who personally serves the notice executes a certification of service.

The Notice of Termination of the Lease shall state that the Authority has made a determination of a violation of the One Strike Policy and thus a determination of ineligibility for Public Housing upon the evidence available to the Authority. The notice shall also state that the Authority has also determined that the resident should be evicted and that thus, eviction proceedings, against the resident will be commenced within the Superior Court of New Jersey, Cape May County, Special Civil Part, by way of a summary dispossess action. The notice shall also make a demand for possession telling the resident that he/she must leave and vacate the Authority's property on or before the date stated for termination of the lease.

The Notice of Termination shall also state that as HUD has determined that the eviction procedures in the Special Civil Part, Superior court of New Jersey provide the opportunity for a hearing and affords the assisted resident with due process and thus, the assisted resident is not entitled to a grievance hearing on the termination of the lease.

7. **CONTINUED OCCUPANCY BY AGREEMENT:** If the evidence relied on by the Authority in making an initial determination relates to a member of the Resident's Household, or a guest of the resident, or some other person under the assisted resident's control, the Authority and the assisted resident may agree that the lease under which the assisted resident occupies the leased premises, can be amended to include a restriction barring the offending family member, guest or other party from the residential unit. Said agreement must be in the form of an Amended Lease, in writing, signed by a representative of the Authority and the assisted resident. The Amended Lease shall provide that the offending family member, guest or other party is banned and may not visit or stay overnight on the leased premises and may not enter upon the authority's property or property occupied by the assisted resident. The Amended Lease shall also acknowledge that, if the offending family member, guest, or other party does enter the leased premises, such party shall be treated as a trespasser and prosecuted to the fullest extent of the law, and that such action shall also be a substantial violation of the lease that may allow an eviction action to be taken against the assisted resident.

E. Records Management.

1. The Authority shall establish and implement a system of records management that ensures that any criminal record received by the Authority is:
 - a) maintained confidentially;

- b) not improperly disseminated; and
- c) destroyed, once the purpose for which the record was requested has been accomplished.

F. Definitions

Authority: means Housing Authority of the City of Wildwood, its agents, servants or employees.

Applicant: means any applicant to the Authority for prospective housing assistance under any housing assistance program.

Tenant: means any tenant who is currently receiving some form of housing assistance from the Authority.

Resident: means any tenant who lives in a unit owned or managed by the Authority.

Drug-related criminal activity: shall include the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance.

Head of the household: means the primary beneficiary of the housing assistance from the Authority.

Housing Assistance: means any form of assistance or subsidy provided by the Housing Authority.

Members of the head of the household's household: shall include anyone else residing in the same residential unit occupied by the head of the household.

Violation (In the case of Resident in Public Housing Units) of One Strike Policy: A finding that prohibited drug related or violent criminal activities have been committed on or off the leased premises, or, any other prohibited activities have been committed on or near the leased premises.

**For Termination of Lease for
Public Housing Pursuant to
“One Strike You’re Out” Policy**

Participant’s Name
Address
Wildwood, NJ 08260

Dear Participant:

This form is to acknowledge that you have received and read the attached ‘One Strike & You’re Out Policy.’ Further, by signing this acknowledgement below, you are stating that if you or any member of your household, or other person under your control, violates the attached ‘One Strike & You’re Out Policy”, the Housing Authority of the City of Wildwood will have the right to terminate your lease, evict you and your household members.

Participant’s Name	Date
Household Member	Date

(EXHIBIT “A”)

THE HOUSING AUTHORITY OF THE CITY OF WILDWOOD

**

‘ONE STRIKE & YOU’RE OUT POLICY’

**

BE WARNED! The Housing Authority of the City of Wildwood has the legal right to terminate residency of the tenants and members of their household and has the legal right to have tenants and members of their household evicted if you or a member of your household or other person under your control have engaged in or been convicted of criminal activity, drug-related criminal activity, or alcohol abuse, regardless of whether such activity occurs on the residential premises. In addition, you and members of your household may be evicted if a guest or person under your control engages in criminal activity, drug- related criminal activity, or alcohol abuse while on the residential premises.

Some examples of prohibited conduct are:

- | | | |
|-------------------|------------------------|---------------------------------|
| Burglary | Assault | Malicious Mischief |
| Larceny | Battery | Drug(s): Use, Possession |
| Robbery | Vandalism | Manufacture or |
| Murder | Arson | Distribution |
| Fighting | Nuisance | Abuse of Alcohol |
| Loitering | Excessive noise | |
| Harassment | | |

(EXHIBIT “B”)