
YAKAMA NATION HOUSING AUTHORITY

NO TRESPASS POLICY

Yakama Nation Housing Authority

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YAKAMA NATION HOUSING AUTHORITY NO TRESPASS POLICY

Chapter 1 PURPOSE AND SCOPE

- 100.1 Purpose:** This No Trespass Policy (this “Policy”) has been adopted by the Yakama Nation Housing Authority (“YNHA”) Board of Commissioners (the “Board”) to establish standards and procedures for YNHA to provide a safe environment for its residents and employees by banning certain persons from entering YNHA property, issuing No Trespass Notices to such persons, creating a list of such persons, and prosecuting (either through criminal or civil processes, whichever may be appropriate) those persons who come onto YNHA property in violation of a No Trespass Notice.
- 100.2 Scope:** This policy applies to all properties owned, operated, managed, and/or leased by YNHA. YNHA is committed to providing a safe environment for our residents and employees, and this often requires dealing with nonresidents. This Policy sets out the procedures and standards through which YNHA can successfully exclude from YNHA property those nonresidents who present a danger to, or interfere with the quiet enjoyment of, YNHA residents.

Chapter 2 AUTHORITY, ADMINISTRATION AND APPLICABLE LAWS

- 200.1 Authority.** The Board has authority to adopt this Policy under Resolution T-94-77 (June 21, 1977), as amended, and is responsible to ensure that any policies that are adopted are appropriate for YNHA. This Policy and any amendments to this Policy shall be effective only upon adoption by Resolution of the Board.
- 200.2 Delegation of Authority.** The Board delegates the responsibility for the administration and monitoring of this Policy to the YNHA Executive Director. The Executive Director may delegate one or more of his/her duties to a YNHA staff member who is competent to perform those duties, provided the delegation is in writing.
- 200.3 Implementation.** The Executive Director will ensure that any procedures or forms that are developed to implement this Policy conform to this Policy. Work performed this Policy shall be at all times in the best interests of the YNHA and in accord with other YNHA policies and applicable laws. Personnel using this Policy are responsible for being familiar with its content.

- 200.4 Applicable Laws.** This Policy shall comply with all applicable laws including, without limitation, the Revised Law and Order Code of the Confederated Tribes and Bands of the Yakama Nation (“RYC”), as amended, and the Native American Housing and Self-Determination Act of 1996 (Pub. Law 104-330), as amended (“NAHASDA”) and regulations under NAHASDA.. The YNHA Executive Director will periodically review this policy and recommend amendments as necessary to comply with applicable laws, or for other purposes.
- 200.5 Sovereign Immunity.** YNHA hereby expressly affirms its tribal sovereign immunity to suit in any jurisdiction or tribunal and does not waive, alter, or otherwise diminish that sovereign immunity by adopting or implementing this Policy or any other standard, document, or law referenced herein. To the extent any provision of this Policy or other referenced standard, document, or law is inconsistent with the sovereign immunity of the YNHA or the Yakama Nation, such provision is not adopted by this Policy and is declared void, unenforceable, and severable from the remainder of this Policy.
- 200.6 Prior Policies.** This Policy supersedes all prior policies and communications on each covered subject. This Policy is a tool to assist YNHA personnel, and it does not create a contract or promise specific treatment in specific situations. The Board reserves the right to change, cancel or interpret any YNHA policies at its sole discretion and without prior notice.
- 200.7 Other Policies.** Other YNHA Policies may apply and should be consulted and implemented in concert with this Policy.

Chapter 3 DEFINITIONS

- 300.1 YNHA Property** means rental units, homeownership units, community centers, and other buildings, parks, common areas, and parking lots within the YNHA communities, and properties owned and managed by YNHA, see Exhibit A. Signs have been posted on YNHA Property that clearly identify the property as YNHA’s property. YNHA retains the inherent right of an owner to exclude certain persons from YNHA Property.
- 300.2 Authorized Persons** means YNHA housing residents, YNHA employees, YNHA contractors and their employees, and Yakama Tribal law enforcement officials. Authorized persons are permitted to be on YNHA Property. Also permitted on YNHA Property are the invited guests of these stated persons. Any person who is on YNHA Property who is not authorized to be on YNHA Property is considered to be trespassing.

300.3 Unauthorized Persons means those who are not Authorized Persons as defined in this Policy, and specifically includes persons who engage in conduct that would constitute a lease or homebuyer agreement violation or YNHA policy violation if committed by a tenant or homebuyer of YNHA. The persons who are expressly not authorized to enter or remain on YNHA Property include, but are not limited to, the following:

- (a) Any person who has threatened and/or continues to threaten the health or safety of, or right to peaceful enjoyment of the premises by residents or employees of YNHA;
- (b) Any person who engages in or has engaged in criminal activity (including drug-related criminal activity) on or off YNHA property;
- (c) Any person who engages 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, YNHA residents, visitors and guests, YNHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official YNHA or law enforcement business, whether on or off YNHA Property;
- (d) A person who loiters, or otherwise fails to have any legal business, on YNHA property;
- (e) Any person who causes significant littering on YNHA property;
- (f) Any person who engages in any illegal behavior involving automobiles or other vehicles, including, but not limited to, reckless driving, joy riding, destruction, and theft;
- (g) Any person who engages in a verbal or physical confrontation with any Authorized Person, as defined in paragraph 300.2 of this Policy, while on YNHA Property;
- (h) Any person who is the subject of an enforceable temporary or permanent restraining order, protection order, or other order prohibiting contact with a YNHA resident or employee and/or entry on YNHA property;
- (i) Any person who is squatting on YNHA Property (for the purposes of this Policy, “squatting” shall mean occupying an abandoned or unoccupied space or building that the squatter does not own, rent or otherwise have permission to use);

- (j) Any person who has been excluded and removed from the Yakama Nation pursuant to RYC Title 35.01- Exclusion of Persons from the Yakama Indian Nation; or
- (k) Any person who is a registered sex offender in any jurisdiction, including but not limited to an offender registered pursuant to RYC Chapter XI - Sex Offender Registration and Notification Code.

300.4 Trespass means Criminal Trespass under RYC Title X – Criminal Offenses, which defines Criminal Trespass as follows:

- (a) Criminal Trespass - Buildings: Any person who without permission shall enter or intentionally remain in any building or separately secured or occupied portion thereof, knowing that he is not licensed or privileged to do so whether day or night, shall be guilty of an offense. Upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300 or both, with costs. . (RYC Section 10.01.29.)
- (b) Criminal Trespass - Lands: Any person who shall enter or remain upon any lands or pick or dig up with intent to keep, any materials from lands, including waters, as to which notice against trespass is given by actual communication to such person or by posting in a manner reasonably likely to come to the attention of intruders or closed areas of the Reservation defined by the Tribal Council, or by fencing or other means of enclosure manifestly designed to exclude intruders, shall be guilty of an offense. Upon conviction thereof, shall be sentenced to confinement for a period of not more than one (1) month or to pay a fine of not more than \$100 or both, with costs, and shall be required to pay any damages ensuing from such criminal trespass. Any materials taken shall be returned to the place of taking or confiscated by the Court. (RYC Section 10.01.31).

Chapter 4 PREPARATION AND SERVICE OF NOTICE

400.1 No Trespass Notice. A person who is determined by YNHA’s Executive Director or designee to be an Unauthorized Person, as defined in this Policy, will be prohibited by YNHA from entering or remaining on YNHA Property.

- (a) The YNHA Executive Director or designated staff, and any law enforcement officer, may serve an individual who has been determined to be an

Unauthorized Person with a No Trespass Notice. The No Trespass Notice to be used has been attached to this Policy.

- (b) The following information must be included in the No Trespass Notice before anyone serves the No Trespass Notice on the person:
 - 1. the full name and address of the Unauthorized Person being served with the No Trespass Notice;
 - 2. the date the No Trespass Notice is delivered to the Unauthorized Person;
 - 3. the signature of the Police Officer or designated staff person who has executed the No Trespass Notice;
 - 4. the reason(s) for No Trespass Notice; and
 - 5. a description of the Unauthorized Person, to include such information as birth date, social security number, and driver's license or other special identification, to the extent such information is available..
- (c) As defined in this Policy, "Unauthorized Person" does not include residents. If a person is a YNHA resident or listed on the household composition he/she may not be served with a No Trespass Notice. If such person's conduct amounts to a lease violation then the issue is dealt with by YNHA procedures for terminations and evictions. If a restraining order is entered against a resident or household in the interest of safety, the restraining order will be enforced by the Yakama Tribal Police.

400.2. Service of No Trespass Notice. Once the No Trespass Notice form is complete, it must be served on the Unauthorized Person. Service is crucial. A completed No Trespass Notice is only effective after it is served on the Unauthorized Person. In the event that the trespasser is a juvenile, YNHA will serve the original No Trespass Notice on the trespasser's parent or legal guardian. The Certificate of Service must be completed and signed by the person who has served the No Trespass Notice. The No Trespass Notice may be served in any one or more of the following ways

- (a) Personally handing it to the person named.
- (b) Mailing it to the last known mailing address of the person named by U.S. Mail, certified.
- (c) Posting it securely on or in a spot visible from the entrance to the dwelling where the person named is known to be residing.

A law enforcement officer may serve a No Trespass Notice on a nonresident in the same circumstances that a designated YNHA employee can. If a law enforcement officer does so, he/she must give copies of the notice to the YNHA Executive Director and to any other officers assigned to the area.

Chapter 5 ENFORCEMENT

500.1 Violation of No Trespass Notice. If a person enters YNHA Property after having been served with a No Trespass Notice, that person is committing trespass against YNHA. YNHA will enforce against the trespass to the full extent of the law, including but not limited to arrest and criminal or civil prosecution under the applicable provisions of Yakama Nation Tribal law.

- (a) If YNHA staff observes a person who they know is the subject of a No Trespass Notice on YNHA Property, staff shall contact law enforcement to enforce the No Trespass Notice.
- (b) There are several potential outcomes once the police are called. If the police come to the scene and the person is still on the property, the police may arrest the person immediately. The police may also ask the person to leave the area and issue a summons to the person to appear in Tribal Court at a future date.
- (c) If the police do not arrest the person, the YNHA Executive Director or designee may complete a formal criminal complaint to have the matter prosecuted. The criminal complaint form can be obtained from the Tribal Court.
- (d) The YNHA Executive Director or his or her designee may ask the YNHA attorney to file a civil complaint against the trespasser.
- (e) If the person is not on the premises when the police arrive, the police cannot arrest the person based only on the trespass. To have the trespasser prosecuted, the YNHA Executive Director must file a criminal complaint.
- (f) Criminal trespass is prosecuted by the Yakama Nation Tribal Prosecutor. The YNHA Executive Director or his or her designee works with the YNHA attorney to provide the Prosecutor with the reasons a No Trespass Notice was issued, names of witnesses to the trespass, and documentation of service of the No Trespass Notice. The Executive Director and/or the witness(es) may be required to give their testimony before the Court.

500.2. Limitations to the No Trespass Notice. One defense a person may use to avoid prosecution is to claim he or she has a lawful reason to be on YNHA property. The most common reason given is that he or she is visiting a YNHA resident.

- (a) A nonresident **does not** have the right to visit anyone, but a resident **does** have the right to invite a guest, provided that person is not barred by a restraining order and is not a registered sex offender.
- (b) When a person who has been served with a No Trespass Notice (but is not barred by a restraining order and is not a registered sex offender) has been invited to visit by a resident, that person may be permitted to visit the resident's unit, but may not loiter in the common areas or visit other units.
- (c) It is appropriate for the YNHA Executive Director or designee to discuss with the resident why YNHA issued the No Trespass Notice and, if applicable, to explain that having this person on the premises may result in a lease violation.
- (d) YNHA staff shall keep notes of any meeting with a resident in regard to a person served with a No Trespass Notice. The notes will indicate the time, date, place, persons present, and any decisions as to how to proceed. One copy of the notes will be kept in the resident's file and another copy will be kept with the nonresident's No Trespass Notice.

500.3 No Trespass List. YNHA shall maintain and update a list of all those persons who have been served with a No Trespass Notice, known as the "No Trespass List," which shall be updated quarterly or more often as determined by the Executive Director. The No Trespass List shall be posted in a public area in the YNHA administrative offices. The No Trespass List shall be distributed to: 1) the Yakama Tribal Police, 2) any security guard services contracted by YNHA; and 3) appropriate YNHA staff, to include the Housing Manager, the Elderly Housing Manager, and the Compliance Officer. YNHA shall provide notice to its tenants and homebuyers that the No Trespass List is available at the YNHA offices. A person's name shall remain on the No Trespass List as long as the No Trespass Notice is in effect.

Chapter 6 DUE PROCESS

600.1 Opportunity to Grieve No Trespass Notice. A person who is served with a No Trespass Notice shall have the opportunity to grieve the Notice under the YNHA Grievance Policy and Procedures, which may be obtained from YNHA..

600.2 Subsequent Opportunity to Request Rescission of No Trespass Notice. If through the YNHA grievance process, the No Trespass Notice is upheld, the person who is the subject of the No Trespass Notice may after twelve (12) months and no more often than every twelve (12) months thereafter, request an opportunity to request that the No Trespass Notice be rescinded.

- (a) The person must present evidence to the YNHA Executive Director that the reasons for the No Trespass Notice no longer exist and that the Notice should be rescinded.
- (b) All requests for rescission shall be submitted in writing to the YNHA Executive Director. Any documentary evidence that the person wants the YNHA Executive Director to consider must be attached to the request.
- (b) The burden of proof that the reasons for the No Trespass Notice no longer exist shall be on the person who is the subject of the Notice.
- (c) The YNHA Executive Director may make his or her decision on the written evidence, or, at his/her sole discretion, may meet with the person.
- (d) The YNHA Executive Director's decision on a request for rescission shall be final.

EXHIBIT A
YNHA MANAGED PROPERTIES

The following rules and regulations apply to all property owned, leased, or managed by the Yakama Nation Indian Housing Authority (“YNHA”).

NO ONE MAY:

- 1. Enter YNHA Property at any time unless he or she is:**
 - a. A resident or household member whose name is on the family composition for the property,
 - b. An employee or agent of YNHA; or
 - c. A guest or visitor of a resident, household member or YNHA.
- 2. Consume any alcoholic beverage on YNHA property.**
- 3. Stand, sit or walk on or across any electrical transformer, wall or fence.**
- 4. Create a nuisance or otherwise unreasonably disturb the right to quiet enjoyment of the property, such as conduct that:**
 - a. Is loud or disorderly;
 - b. Impedes vehicular or pedestrian traffic, or
 - c. Threatens or intimidates others.
- 5. Engage in any illegal activity.**
- 6. Sell or solicit for sale on YNHA premises without permission from YNHA or between the hours of 8:00 a.m. and 8:00 p.m.**

A violation of any of these rules will be considered a serious violation of the resident’s lease or homebuyer agreement, and may also be grounds for criminal charges against a resident or nonresident under applicable law, including laws against trespass and disorderly conduct.

NO TRESPASS NOTICE
Yakama Nation Housing Authority

To: _____ Date Issued: _____

Address: _____

Date of Birth: _____ Social Security No. _____

Driver's License No.: _____ Tribal Enrollment No. _____

YOU ARE HEREBY NOTIFIED that you are not to enter or remain on the property of the YAKAMA NATION HOUSING AUTHORITY ("YNHA") at _____ for the following reason(s): _____

If you enter in or upon YNHA property, including rental and homeownership units, you will be in violation of the Revised Yakama Code Sections 10.01.39, 10.01.41, and other applicable law, and you will be subject to arrest and prosecution and/or civil suit for trespass damages.

If you have already been informed verbally not to come onto YNHA property, this notice serves to confirm that verbal notification.

Right to Appeal. If you disagree with this Notice, you may file a grievance under the YNHA Grievance Policy and Procedures. To be considered, the grievance must be submitted in writing to the YNHA Receptionist by not later than five (5) business days from when you receive this No Trespass Notice.

YAKAMA NATION HOUSING AUTHORITY

By: _____ cc: Yakama Nation Tribal Police Department
Title: _____ Yakama Nation Tribal Prosecutor

CERTIFICATE OF SERVICE

I, _____, on the _____ day of _____, 20__, hereby certify that I did serve upon _____ this No Trespass Notice at the following address or location _____ by one or more of these methods:

- Hand delivery;
- Sending a copy via United States mail, postage prepaid, to the last known and usual address.
- Posting a copy of on or in a spot visible from the entrance of the last known residence.

Date: _____ By: _____ Title: _____