

**RESOLUTION 2013-23
Amending No Trespass Policy**

WHEREAS, the Colville Indian Housing Authority is the duly constituted Housing Authority for the Confederated Tribes of the Colville Reservation, established by the Colville Business Council pursuant to the authority of the Constitution of the Colville Confederated Tribes, and in particular Article V. Section 1(a); and,

WHEREAS, the authorities and responsibilities of the Colville Indian Housing Authority are set out in Chapter 11-2 Colville Indian Housing Authority Ordinance, adopted by Resolution 2007-651 of the Business Council; and,

WHEREAS, the purposes for which the Colville Indian Housing Authority was established include: (1) remedying unsafe and unsanitary housing conditions that are injurious to the public health, safety, and morals; (2) alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income; and (3) providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings; and,

WHEREAS, the Colville Indian Housing Authority has been designated as the "Trially Designated Housing Entity" for the Confederated Tribes of the Colville Reservation, as that term is defined at Section 4(21) of the Native American Housing Assistance and Self-Determination Act of 1996, P.L. 104-330 (25 U.S.C. 4101 -4212), as amended ("NAHASDA"); and,

WHEREAS, the Board of Commissioners has reviewed the proposed revisions to the No Trespass Policy of the Colville Indian Housing Authority, and as a result of that review has determined that it is necessary to revise and update the No Trespass Policy to better meet the needs of the housing authority; and,

NOW THEREFORE BE IT RESOLVED, the Board of Commissioners hereby approves the revised No Trespass Policy of the Colville Indian Housing Authority:

1. Authorized Persons, adding language to notify tenant that inviting persons with a No Trespass Notice into the home is a violation of their lease or homebuyer agreement.
2. Limitations to the No Trespass Notice. Clarifying that inviting persons with a No Trespass Notice is a violation of their lease or homebuyer agreement

NOW THEREFORE BE IT FINALLY RESOLVED that the revised No Trespass Policy listed above shall go into effect immediately and shall supersede any prior No Trespass Policy of the CIHA that deal with the same subject matter or which are otherwise inconsistent as of the date of this Resolution.

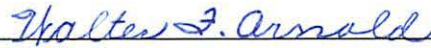
CERTIFICATION

This is to certify that the foregoing was duly enacted at a Regular Meeting of the Colville Indian Housing Authority Board of Commissioners held on August 15, 2013 with a quorum being present, with a vote of 4 FOR; AND 0 AGAINST, and ABSTAINED.



Keith D. Redthunder, Chair
Board of Commissioners

ATTEST:



Walter F. Arnold, Secretary
Board of Commissioners

Attachment:

No Trespass Policy

NO TRESPASS POLICY

Purpose: To establish standards and procedures for CIHA to provide a safe environment for its residents and employees by banning certain persons from entering CIHA 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 CIHA property in violation of a No Trespass Notice.

Scope: This policy applies to all properties owned, operated, managed, and/or leased by CIHA.

- A. **Overview.** CIHA 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 CIHA can successfully keep out of CIHA developments those nonresidents who are dangerous or interfere with the quiet enjoyment of CIHA residents.
- B. **CIHA Property.** CIHA property includes, but is not limited to, the buildings, and parks within the CIHA communities, the common areas, and parking lots within the properties owned and managed by CIHA, see Exhibit A. Signs have been posted on CIHA Property that clearly identifying the property as CIHA's property. CIHA retains the inherent right of an owner to exclude certain persons from CIHA property.
- C. **Authorized Persons.** It is CIHA policy that only CIHA employees, CIHA contractors and their employees, CIHA residents, and law enforcement officials are authorized to be on CIHA Property. Also permitted on CIHA Property are the invited guests of these stated persons, provided that it will be deemed to be a violation of the applicable Lease or Homebuyer Agreement for any CIHA tenant or homebuyer to invite an Unauthorized Person who has been served a No Trespassing Notice to enter upon CIHA property, unless expressly authorized in writing to do so by CIHA. Any person who is on CIHA Property who is not authorized to be on CIHA Property is considered to be trespassing, including those that have been served a No Trespassing Notice by Law Enforcement or Authorized CIHA employee(s).
- D. **Unauthorized Persons.** Certain persons are expressly not authorized to enter or remain on CIHA Property, including those who engage in any conduct that would constitute a lease or homebuyer agreement violation if committed by a tenant or homebuyer of CIHA. The persons who are expressly not authorized to enter or remain on CIHA Property include, but are not limited to, the following:

1. 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 CIHA;
2. Any person has engaged in criminal activity (including drug-related criminal activity) on or off CIHA property;
3. 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, CIHA residents, visitors and guests, CIHA employees, commissioners, representatives, agents, contractors, and law enforcement officials carrying out official CIHA or law enforcement business, whether on or off CIHA Property;
4. A person who loiters, or otherwise fails to have any legal business, on CIHA property;
5. Any person who causes significant littering on CIHA property;
6. 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;
7. Any person who engages in a verbal or physical confrontation with any Authorized Person while on CIHA Property;
8. Any person who is the subject of an enforceable temporary or long-term restraining order prohibiting contact with a CIHA resident or employee;
9. Any person who is squatting on CIHA 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);
10. Any person who has been excluded and removed from the Colville Reservation pursuant to Chapter 3-2 of the Colville Tribal Code; or
11. Any person who is a registered sex offender in any jurisdiction, including but not limited to an offender registered pursuant to Section 3-1-265 of the Colville Tribal Code.
12. Any person(s) who have been served a No Trespass Notice.

- E. **Trespass Under Tribal Law.** Colville Tribal law categorizes trespass as a Class C Offense. Trespass is defined, under Tribal law, as follows:
1. **Trespass-Buildings:** Any person who shall enter or remain in any building or occupied structure or the premises of another person, knowing that he/she is not authorized to do so, whether day or night, shall be guilty of Trespass-Buildings. Trespass-Buildings is a Class C offense. (Colville Tribal Code Section 3-1-57.)
 2. **Trespass-Lands:** Any person who shall enter or remain upon any land as to which notice against trespass is given to him/her by actual communication, or by posting in a manner reasonably likely to come to the attention of intruders or by fencing or other means of enclosure manifestly designed to exclude intruders, or who shall willfully allow livestock to occupy or graze on the fenced lands of another shall be guilty of Trespass-Lands. Trespass-Lands is a Class C offense. (Colville Tribal Code Section 3-1-58.)
- F. **No Trespass Notice.** As determined by CIHA's Executive Director or designated staff, a person who has engaged in an activity that threatens the health, safety and right to peaceful enjoyment, set forth in Section D, above, will be prohibited from entering CIHA Property.
1. In certain cases it is appropriate to give explicit notice to an unauthorized person that he/she is trespassing on CIHA Property.
 2. The CIHA Executive Director, designated staff, and any law enforcement officer may serve an individual non-resident with a No Trespass Notice for a valid reason. The No Trespass Notice to be used has been attached to this Policy.
 3. The following information must be included in the No Trespass Notice before anyone serves the No Trespass Notice on the person:
 - a) the full name and address of the person being served with the No Trespass Notice;
 - b) the date the No Trespass Notice is delivered to the banned person;
 - c) the signature of the Police Officer or designated staff person who has executed the No Trespass Notice;
 - d) the reason(s) for No Trespass Notice; and

e) a description of the person, to include such information as birth date, social security number, and driver's license or other special identification.

4. It is important to stress that only nonresidents are subject to a No Trespass Notices. If a person is a Resident or an authorized member (On Lease Agreement with CIHA) of a Resident's household he/she may not be served with a No Trespass Notice. If such person's conduct amounts to a lease violation the issue must be dealt with by CIHA procedures for evictions.

G. **Service of No Trespass Notice.** Once the No Trespass Notice form is complete, it must be served on the person. Service is crucial. A completed No Trespass Notice is only effective once it is served on the person named. In the event that the trespasser is a juvenile, CIHA will serve the original No Trespass Notice to the trespasser's parent or legal guardian. The certificate of service must be filled out 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

1. Personally handing it to the person named.
2. Mailing it to the last known mailing address of the person named by U.S. Mail, certified.
3. 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 CIHA employee can. If a law enforcement officer does so, he/she must give copies of the notice to the CIHA Executive Director and to any other officers assigned to the area.

H. **Opportunity to Appeal No Trespass Notice.** A person who is served with a No Trespass Notice shall have the opportunity to appeal the Notice according to the following procedures.

1. A person who wishes to appeal must first submit such request in writing to the CIHA Executive Director no more than five (5) business days from service of the No Trespass Notice. Any request for appeal that is submitted after the five (5) days have passed will be automatically rejected.
2. If a timely request for an appeal is submitted, the Executive Director shall schedule an informal hearing with the person who has been served with the

No Trespass Notice. The person may appear before the Executive Director, either alone or with a representative of his or her choice, to explain why the No Trespass Notice should be rescinded. Prior to the hearing the person shall have the right to examine any relevant documents, records, or regulations directly related to the issuance of the No Trespass Notice.

3. The Executive Director shall make a determination within five (5) business days and provide a written copy of that determination in writing to the person. If the Executive Director does not provide a written determination within that time, it shall be deemed that the Executive Director has upheld the decision to issue the No Trespass Notice. The No Trespass Notice shall remain in effect unless and until the Executive Director rescinds the No Trespass Notice
4. If the person wishes to appeal the Executive Director's decision, he or she must submit such request in writing to the CIHA Executive Director no more than five (5) business days from service of the Executive Director's appeal decision, or within five (5) days of the date such decision should have been issued, if no decision has been issued. Any request for appeal that is submitted after the five (5) days have passed will be automatically rejected.
5. The Executive Director shall place the request for an appeal on the agenda for the CIHA Board's next meeting, and shall provide the Board with copies of the No Trespass Notice, the written request for appeal, and any relevant documents, records, or regulations directly related to the issuance of the No Trespass Notice and the Executive Director's decision on appeal.
6. The person may appear before the Board, either alone or with a representative of his or her choice, to explain why the No Trespass Notice should be rescinded.
7. Prior to the hearing the person shall have the right to examine any relevant documents, records, or regulations directly related to the issuance of the No Trespass Notice.
8. The No Trespass Notice shall remain in effect unless and until the CIHA Board rescinds the No Trespass Notice.
9. The CIHA Board will issue its decision in a timely manner.
10. The CIHA Board's decision will be final.

- I. **Subsequent Opportunity to Request Rescission of Notice.** A person who is the subject of the No Trespass Notice shall have the opportunity not more than once every twelve months to request an opportunity to present evidence to the CIHA Executive Director that the reasons for the No Trespass Notice no longer exist and that the Notice should be rescinded.
 1. Such request shall be submitted in writing to the CIHA Executive Director. Any documentary evidence that the person wishes to present to the CIHA Executive Director must be attached to the request.
 2. The burden of proof shall be on the person who is the subject of the Notice.
 3. The CIHA Executive Director may make his or her decision on the written evidence submitted. The Executive Director may also, at his or her sole discretion, meet with the person.
 4. The CIHA Executive Director's decision on a request for rescission shall be final.

- J. **Violation of No Trespass Notice.** If a person enters CIHA property after having been served with a No Trespass Notice, that person is committing trespass against CIHA. CIHA 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 Tribal law prohibiting trespass.
 1. If CIHA staff observes a person that they know is the subject of a No Trespass Notice on CIHA property, staff shall contact law enforcement to enforce the No Trespass Notice. If any CIHA staff has been cross-deputized by law enforcement, such staff may issue a citation to the person for violating the No Trespass Notice.
 2. 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.
 3. If the police do not arrest the person, the CIHA Executive Director or his or her designee may complete a formal criminal complaint to have the matter prosecuted. The criminal complaint form can be obtained from the Tribal Court.

4. The CIHA Executive Director may also opt to file a civil complaint under the civil code prohibiting trespass.
5. If the person is not on the premises when the police arrive, the police cannot arrest the person unless there has been a felony committed along with the trespass. The CIHA Executive Director must then file a criminal complaint or a civil complaint to insure prosecution for the trespass.
6. Where prosecution of a No Trespass Notice is handled as a criminal matter, it will be handled by the Tribal Prosecutor's office. The CIHA Executive Director or his or her designee must be prepared to provide Tribal Prosecutor's office with all the reasons a No Trespass Notice was issued, and names of witnesses to the trespass and the service of the No Trespass Notice. The Executive Director and/or the witness(es) must be prepared to testify if the person is to be kept off of CIHA property. This may take several court appearances, with the possibility that there will be limited results the first few times.

K. 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 CIHA property. The most common reason is likely to be that he or she is visiting a CIHA resident.

1. Therefore, when a person who has been served with a No Trespass Notice has been invited to visit by a resident, that person has a lawful reason to cross the common areas of CIHA property solely for the purpose of access to and egress from the resident's apartment (unless that person is barred by a restraining order or if that person is a registered sex offender).
2. It is appropriate for the CIHA Executive Director or his or her designee to discuss with the resident the concerns about why CIHA wants the nonresident to stay off of CIHA property, as well as to explain that having this person in their household will be deemed to be a violation of their Lease or Homebuyer Agreement.
3. The resident may agree with CIHA and not allow the person to visit. However, if the resident does not agree and insists on allowing the person to visit, CIHA's meeting with the resident will be evidence to evict the resident. Inviting or otherwise allowing an unauthorized person who has been served with a No Trespass Notice onto CIHA-owned or managed property is a violation of this Policy and will be deemed by CIHA to be a violation of the applicable Lease or Homebuyer Agreement.
4. CIHA staff shall keep notes of any meeting with a resident in regard to a person served with a No Trespass Notice. The notes should indicate the

time, date, place, persons present, and any decisions as to how to proceed. One copy of the notes should be kept in the resident's file and the other copy kept with the nonresident's No Trespass Notice.

- L. **Ban List.** CIHA shall maintain and update a list of all those persons who have been served with a No Trespass Notice, known as the "Ban List," which shall be updated quarterly or as often as determined by the Executive Director. The Ban List shall be posted in a public area in the CIHA administrative offices. The Ban List shall be distributed to: 1) the Police Department, 2) all law enforcement officers working as agents for CIHA; and 3) all property managers. CIHA shall provide notice to its tenants and homebuyers that the Ban List is available at the CIHA offices. A person's name shall remain on the Ban List unless and until the No Trespass Notice for that person has been officially and formally rescinded by CIHA in writing to the person.

EXHIBIT A
CIHA MANAGED PROPERTIES

The following rules and regulations apply to all property owned, leased, or managed by the Colville Indian Housing Authority ("CIHA").

NO ONE MAY:

- 1. Enter CIHA Property at any time unless he or she is:**
 - a. A resident or household member whose name is on a dwelling unit for a unit in the property,
 - b. An employee or agent of CIHA; or
 - c. A guest or visitor of a resident, household member or CIHA, unless he or she is an unauthorized person as defined in this Policy.
- 2. Consume any alcoholic beverage in any common area:**
- 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 without a permit from the Colville Tribes, or sell or solicit for sale between 8:00 p.m. and 8:00 a.m., even with a permit.**

As used in these rules:

- (a) **Common Area** means any part of a housing development that is not leased for the exclusive use and occupancy of a resident, his/her household members, and his/her guests and visitor, including any parking lot, park, playground, recreational area, sidewalk, or yard (as defined below); and
- (b) **Yard** means the outside area adjacent to any rental or homebuyer unit, including any patio or porch, which area:

- (1) Is intended to serve as personal space for a resident of an apartment, his/her household members, and his/her guests and visitor and their guests, and
- (2) Is generally bounded by other yard and sidewalks providing access to more than one apartment.

If any question arises concerning the boundaries of a resident's "yard" the CIHA Compliance Officer will, upon request, identify the boundaries.

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 trespass and disorderly conduct statutes.

NO TRESPASS NOTICE
Colville Indian Housing Authority

To: _____ Date: _____

Address:

Identifying information (SSN, DOB,
Driver's License, etc.):

This **No Trespass Notice** is to advise you that you are no longer welcome on the property of the **COLVILLE INDIAN HOUSING AUTHORITY ("CIHA")** for the following reasons(s):

If you enter in or upon the land of the CIHA after being forbidden to do so by this Notice you will be in violation of the Colville Tribal Code Sections 3-1-57, 3-1-58, and/or 3-7-30, 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 CIHA property, this notice serves to confirm that verbal notification.

Right to Appeal. You may appeal the issuance of this No Trespass Notice to the CIHA Board pursuant to CIHA's No Trespass Notice Policy. Such appeal must be submitted in writing to the CIHA Executive Director no more than five (5) business days from service of this No Trespass Notice. Any request for appeal that is submitted after the five (5) days have passed will be automatically rejected.

Sincerely,
Colville Indian Housing Authority

By: _____
Title:

cc: Colville Tribal Police
Colville Tribal Prosecutor

CERTIFICATE OF SERVICE

I, _____, on the ____ day of _____,
20 __, hereby certify that I did serve upon _____ this

No Trespass Notice by the method indicated below:

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

Date: _____ By: _____