**KIRBYVILLE HOUSING AUTHORITY (KHA)**

**Criminal Screening Policy**

**A. Purpose**

Public and other federally-assisted housing is intended to provide a place to live and raise families - not a place to commit crime, use or sell drugs or terrorize neighbors. It is the intention of the KHA to fully endorse and implement a policy which is designed to:

1. create and maintain a safe and drug-free community;

2. keep our residents free from threats to their personal and family safety;

3. support parental efforts to instill values of personal responsibility and

hard work

4. maintain an environment where children can live safely, learn, and grow up to be productive citizens; and

5. assist families in their vocational/educational goals in the pursuit of self-sufficiency.

**B.** **Administration**

1. All screening and eviction procedures shall be administered fairly and in such a way as not to discriminate based on race, color, nationality, religion, age, sex, familial status, sexual orientation, gender identity, disability, and other legally-protected groups, and not to violate the right to privacy.

2. To the maximum extent possible, KHA will involve other community and governmental entities, as well as resident organizations, in the promotion and enforcement of this policy.

3. This policy will be posted on KHA's bulletin board and copies made readily available to residents and/or applicants on request.

**C. Screening of Applicants**

1. To prevent future drug-related and other criminal activity as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or KHA employees, KHA will endeavor to screen applicants thoroughly and fairly.

2. Such screening will apply to all members of the household who are 18 years of age or older.

3. Procedure or source for screening: publicdata.com, Kirbyville City Police, and Jasper County Sheriff Dept, information from former landlords or neighbors, newspaper articles, and other credible informants/information, if information is such as to cause a reasonable person to believe that an applicant’s pattern of behavior (including abuse of alcohol or other substances, or violence) would pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or KHA employees.

4. **KHA’s Admissions and Continued Occupancy Policy shall comply with Section 4 of Notice PIH 2015-19 / H 2015-10 (excluding the use of arrest records alone in housing decisions).** KHA’sadmissions policy complies with Section 4 of the *Notice* and recognizes the interests of applicants who need access to affordable housing while guarding the safety interests of current residents. The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as stand-alone proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant engaged in disqualifying criminal activity. As part of its investigation, KHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. KHA may also consider any statements made by witnesses or the applicant or tenant not included in the police report; whether criminal charges were filed; whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity.

4. If information is revealed in the criminal history record that would cause KHA to deny housing to the household, KHA shall (upon request) provide a copy of the record to the person for whom the record was received.

5. If the person disputes the information, he/she shall be given an opportunity for an informal hearing according to KHA's hearing procedure outlined in the Admissions and Continued Occupancy Policy.

6. Evidence of drug-related and/or other criminal activity which would pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or KHA employees shall be considered grounds for denial of housing. Drug-related activity is defined as the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use a controlled substance.

7. Reasonable cause (e.g., information from criminal history report, local law enforcement entities, information from former landlords or neighbors) to believe that a person's pattern of behavior (including alcohol abuse) would pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or KHA employees, shall also be considered grounds for denial of housing.

8. In both 6 and 7 above, KHA may waive its policy of prohibiting admission if the person demonstrates to KHA's satisfaction that he/she is no longer engaging in illegal use of a controlled substance or abuse of alcohol and:

a. has successfully completed a supervised rehabilitation program;

b. has otherwise been rehabilitated successfully; or

c. is currently participating in a supervised rehabilitation program.

9. Persons evicted from Public Housing, Indian Housing, Section 23 or any Section 8 Housing Program because of drug-related criminal activity are ineligible for admission to public housing for a three (3) year period beginning on the date of such eviction. This may be waived if:

a. person demonstrates successful completion of a rehabilitation program approved by KHA; or

b. the circumstances leading to the eviction no longer exist, (e.g., the individual involved in drugs is no longer a household member because of incarceration or has moved elsewhere and is not allowed to return).

10. Evidence that a person is subject to a lifetime registration requirement under a State Sex Offender Registration program shall be grounds for denial of housing.

11. In evaluating evidence of negative past behavior, KHA will consider the seriousness of the activity with respect to how it would affect other residents, and/or the likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

12. If, at any time during occupancy, KHA has reasonable cause (e.g., newspaper articles, credible informants, police reports) to believe that a household member is engaging in drug-related or other criminal activity which would pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or KHA employees, KHA may run a subsequent criminal check on that household member.

13. KHA will also order a criminal history on an individual or individuals age 18 years or older who are added to the lease after initial occupancy.

14. Records Management

a. All criminal records received will be maintained confidentially, not misused, or improperly disseminated, and the utmost security will be maintained.

b. All criminal reports, while needed, will be housed in a locked file with access restricted to individuals responsible for screening and determining eligibility and to the Executive Director.

c. Misuse of the above information by any employee may be grounds for termination of employment. Legal penalties for misuse are contained in Section 411.085 of the Texas Government Code.

d. If the applicant is determined to be eligible, the criminal history report shall be shredded as soon as the applicant is housed. If the applicant is denied housing, the criminal history report shall be shredded immediately upon completion of the hearing or due process procedures and a final decision has been made.

e. KHA will document in the applicant's file the circumstances of the criminal report and the date the date the report was destroyed.

**D. Enforcement through Evictions**

1. The provisions of this policy shall also be reflected in the terms and conditions of the lease agreement for all residents of public housing. KHA shall enforce this "one-strike" policy with a "zero-tolerance" position with respect to drug-related and /or other criminal activity which would pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or KHA employees. Such activity shall be grounds for termination of the lease and eviction.

a. Such activity by a household member shall be grounds for eviction, whether committed ON OR OFF THE PREMISES of KHA.

b. Such activity by a guest of the household may also be grounds for eviction of the household if such activity occurs ON THE PREMISES of KHA.

c. Since eviction is a civil, not criminal matter, a criminal conviction or arrest is not necessary to terminate a lease and evict a household; but, KHA shall be responsible for producing evidence strong enough to warrant eviction.

2. A pattern of alcohol abuse which poses a threat to the health, safety or right to peaceful enjoyment of the premises by other residents or KHA employees shall be considered grounds for eviction.

3. According the Due Process Determination of the Department of Housing and Urban Development, KHA's GRIEVANCE PROCEDURE is not applicable for:

a. evictions related to any activity, not just criminal activity, which would pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents; or

b. evictions related to any drug-related criminal activity ON OR OFF KHA premises, not just "on or near" the premises.

**E. Tracking and Reporting Crime**

1. A component of good management is the evaluation of the implementation of Policy procedures. The evaluation is based on tracking of crime-related problems in Public Housing Developments, cooperating with local law enforcement officials and local courts, implementing an effective screening process and resident eviction procedures, and meeting goals under any HUD-funded drug prevention or crime reduction program. KHA shall review its progress in these areas regularly through the compilation of periodic reports, generated at least semi-annually, with a fiscal year end summary completed and submitted to KHA Board of Commissioners.

2. KHA shall work cooperatively with State and local police departments. KHA shall request that police: 1) promptly provide the Executive Director with relevant incident report for timely eviction processing; 2) help KHA expedite drug identification in serious cases, and 3) prepare for cases as needed with KHA attorney. Police may also be present at eviction hearings involving criminal activity.

3. KHA shall work cooperatively with local judges. Although KHA cannot communicate with judges concerning pending court actions, KHA can communicate with the court system regarding the need for evictions where the evidence shows serious lease violations and the goal of KHA is to provide drug and criminal-free housing.