

MILLE LACS BAND OF OJIBWE

DRUG POLICY FOR HOUSING DEPARTMENT RENTAL UNITS

OBJECTIVES

The purpose of this policy is to ensure the health, safety and welfare of the Mille Lacs Band of Ojibwe and all peoples residing within its jurisdiction. The Court of Central Jurisdiction will have sole jurisdictional authority over cases arising from this policy and will be the only venue for enforcement. This policy will provide officers and agents of the Band with basic procedural guidelines regarding illicit drug abuse within rental properties owned by the Band and situated within the Band's jurisdiction.

As provided in the Occupancy Policy, once a tenant moves into a unit managed by the Housing Department, residents, family members and guests are expected to abide by all standards and policies established by the Housing Department, HUD and NAHASDA. Failure to adhere to the provisions in this policy and others can result in the termination of any lease agreement and eviction. This document will provide a consistent and uniform basis for decision-making on behalf of the Housing Department in all matters regarding drug abuse in its rental properties.

COVENANT TO PROHIBIT DRUGS ON PREMISES AND CURTILAGE

This policy requires tenants to abide by a covenant to not allow drugs. [Inspired by and based upon Minn. Stat. 504.181(1)(3)]. By agreeing to become a tenant of the Housing Department's properties, a lessee will agree to the following:

- (1) The lessee will not allow schedule I drugs, or schedule II drugs, without a prescription, in their homes. These drugs are defined within the Comprehensive Drug Abuse Prevention and Control Act, 21 USC 801- 802 (1970).
 - a. Schedule I drugs are not authorized for medical use and have the high potential for abuse. Drugs found within this category are listed among, but not limited to, those found below:

Crack cocaine, Methamphetamine, Heroin, Marijuana, LSD
 - b. Schedule II drugs also have a high potential for physical and psychological addition, but are sometimes approved for medical use. These drugs will not be permitted in homes where the lessee does not have a doctor's prescription and cannot provide a medical history explaining the need for a Schedule II drug. Drugs found within this category are listed among, but not limited to, the following:

Percodan, Morphine, Cocaine, Ritalin

- (2) The common areas and curtilage will not be used by lessee, or anyone under their control, to create, use or distribute Schedule I or II drugs.
- (3) The lessee can be held in breach of this covenant for the actions of others within their home if they knew or had reason to know of the illicit activity.
- (4) Breach of this covenant can lead to eviction.

ENTRY BY LANDLORD AND NOTICE REQUIREMENTS

This policy establishes entry rights and notice requirements. [Inspired by and based upon Minn. Stat. 504.183(2-5)]. Under these guidelines, the landlord and its agents may enter the home of a lessee under certain conditions. A landlord may enter the dwelling for a *reasonable business purpose* and after making a good faith effort to provide notice to the tenant of the desired entry, *unless an exception applies*. A reasonable purpose for a landlord's desired entry is shown by the following, but not limited by the list.

- (1) Showing the unit to prospective tenants.
- (2) Showing the unit to an insurance representative.
- (3) Performance of maintenance.
- (4) Allowing inspections for health, maintenance and the enforcement of building codes.
- (5) The tenant is causing a disturbance in the unit.
- (6) The landlord has a reasonable belief that the tenant is violating the lease.
- (7) The landlord has a reasonable belief that the unit is being occupied by someone other than the lessee.
- (8) The landlord has a reasonable belief that the tenant vacated the unit.

Again, a landlord must make a good faith effort to provide the tenant with notice of the entry, unless an exception exists that permits entry without notice. If an exception exists that allows a landlord or its agent to enter the home, the agent will also leave a written notice, after the entry is completed, in a conspicuous place inside the home. Under Minn. Stat. 504.183(4), a provision adopted under this policy, a landlord may enter the premises of a tenant without notice in order to inspect or take action when there is reasonable suspicion of the following:

- (1) Immediate entry is needed to prevent injury to persons or property due to maintenance conditions, security or law enforcement; or
- (2) Immediate entry is needed to determine a tenant's safety; or
- (3) Immediate entry is needed to comply with local ordinances regarding unlawful activity within the home.

APPLICATION OF ENTRY REQUIREMENTS TO DRUG TESTS

Before a potential tenant's possession of a rental property, the landlord and its agents shall conduct a pre-screening for drugs within the unit. If the drug report comes back positive for drugs, the Housing Department shall clean the unit and retest. A copy of the clean drug report shall be attached to any documentation that the tenant receives upon

moving into the unit. A final screen for drugs in the unit will be conducted as a routine measure upon check-out for departing tenants. If the unit tests positive at this time, the former tenant will be responsible for clean-up costs and may be declared ineligible to receive further housing assistance.

During a tenant's stay within the rental unit, the landlord may enter without initial notice, according to the above provisions, (i.e., if there is an immediate need to enter regarding unlawful activity). Therefore, if a landlord or its agent has a reasonable suspicion that the premises or curtilage are being used for Schedule I, or Schedule II, drug activities, then the agent may enter and take a drug swab for testing. However, the agent must provide notice after the fact, in writing and in a conspicuous place.

In order to reach the required reasonable suspicion to enter, a landlord or its agent must create written reports regarding questionable activities on the premises prior to reaching a decision to enter without prior notice. Regard may be given for an agent's experience in dealing directly with the community. In addition, agents may also fill out additional forms regarding anonymous tips from the neighborhood regarding questionable activities within a rental property. Any forms regarding tips from a known or anonymous source must include the date and time of the incident, parties involved and a relative degree of specificity regarding the actions in question.

This information will be provided to all residents of rental units owned by the Band and managed by the Housing Department. Each resident will receive a copy and sign off on a sheet showing its receipt.