

# Smokefree Public Housing Policy

## Ottumwa Housing Authority Smokefree

### Housing Policy

24 CFR Parts 965 and 966

Effective: July 1, 2017

#### 1. Department of Housing and Urban Development Rule.

On November 29, 2016, the Department of Housing and Urban Development (HUD) adopted Rule RIN 2577-AC97, effective February 3, 2017, which requires every Public Housing Agency (PHA) administering public housing to implement a smokefree policy. Specifically, no later than 18 months from the effective date of the rule, each PHA must implement a “smokefree” policy banning the use of “prohibited tobacco products” in all public housing living units, indoor common areas in public housing, and in PHA administrative office buildings. The smokefree policy must also extend to all outdoor areas up to 25 feet from the public housing and administrative office buildings.

Under the Rule, a PHA’s smokefree policy must, at a minimum, ban the use of all prohibited tobacco products, which are defined as (1) items that involve the ignition and burning of tobacco leaves, such as (but not limited to) cigarettes, cigars, and pipes, and (2) to the extent not covered by (1), waterpipes (hookahs).

Pursuant to the Rule, PHAs may, but are not required to, further restrict smoking to outdoor dedicated smoking areas outside the restricted areas, create additional restricted areas in which smoking is prohibited (e.g., near a playground), or, alternatively, make their entire grounds smoke-free.

#### 2. Purpose of Policy.

This smokefree policy is intended to benefit the Ottumwa Housing Authority (OHA) and all of its public housing residents, visitors, and staff by mitigating (i) the irritation and known adverse health effects of secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the higher costs of fire insurance for a non-smokefree building.

#### 3. Definitions.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

"Electronic Smoking Device" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

#### **4. All Buildings To Be Smokefree.**

All OHA public housing buildings and administrative offices shall be smokefree. Smoking is prohibited in all living units, including any associated balconies, decks, or patios, and in the common areas of the buildings, including, but not limited to, community rooms, community bathrooms, lobbies, reception areas, hallways, laundry rooms, stairways, offices, and elevators.

#### **5. Smoking on Grounds of Buildings.**

Smoking is prohibited anywhere on the grounds adjoining public housing and office buildings, including entryways, patios, and yards or on the grounds adjoining public housing and office buildings, except in designated smoking areas located at least 25 feet from such buildings.

#### **6. Applicability of Policy.**

This Policy is applicable to all Ottumwa Housing Authority residents, Ottumwa Housing Authority employees, visitors, contractors, volunteers, and vendors.

**7. Responsibilities of Tenants.** Tenants and household members shall be responsible to enforce this Policy as to their guests, invitees, and visitors to their residential units. Further, a Tenant shall promptly give the Ottumwa Housing Authority a written statement of any incident where tobacco or marijuana smoke, or vapor from an electronic cigarette, is migrating into the Tenant's apartment unit from sources outside the Tenant's unit.

**8. Ottumwa Housing Authority to Promote Smokefree Policy.** OHA shall post no-smoking signs at entrances and exits, common areas, and hallways, and in conspicuous places on the grounds of all residential and administrative office buildings. In addition, Ottumwa Housing Authority shall provide copies of this Policy to all Tenants and prospective Tenants.

**9. Right of Tenants To Sue Other Tenants Who Violate Policy.** A Tenant may bring legal action against another Tenant related to this smokefree Policy, but a Tenant shall not have the right to evict another Tenant. Any legal action between Tenants related to this Policy shall not create a presumption that Ottumwa Housing Authority failed to perform its responsibilities under the Policy.

**10. Violations of Policy.** A violation of this smokefree Policy shall be considered a material breach of the Tenant's Lease and grounds for enforcement actions, including eviction, by the Ottumwa Housing Authority. A Tenant who violates the Policy shall also be liable to Ottumwa Housing Authority for the costs of repair to the Tenant's apartment unit due to damage from smoke odors or residue.

### **11. Ottumwa Housing Authority Not Guarantor of Smokefree Environment.**

The Ottumwa Housing Authority's adoption of this smokefree Policy does not make OHA or any of its officers, employees, or agents, the guarantor of the health of any Tenant or of the smokefree condition of the portions of its properties in which smoking is prohibited under the Policy. However, the Ottumwa Housing Authority will take reasonable steps to enforce the Policy. Ottumwa Housing Authority is not required to take steps in response to smoking in violation of this Policy unless OHA either has actual knowledge of the smoking and the identity of the responsible Tenant or has been given written notice of the smoking.

**12. Ottumwa Housing Authority Disclaimer.** OHA's adoption of this smokefree Policy does not in any way change the standard of care that the Ottumwa Housing Authority would have to render buildings and premises designated as smokefree any safer, more habitable, or improved in terms of air quality standards than any other rental premises. The Ottumwa Housing Authority specifically disclaims any implied or express warranties that the building, common areas, or Tenants' premises will have any higher or improved air quality standards than any other rental property. Ottumwa Housing Authority cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke or vapor. Ottumwa Housing Authority's ability to police, monitor, or enforce the provisions of this Policy is dependent in significant part on voluntary compliance by Tenants and their guests/visitors. Tenants with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Ottumwa Housing Authority does not assume any higher duty of care to enforce this Policy than any other Ottumwa Housing Authority obligation under the Tenants' Lease Agreement.

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