

Neligh Housing Authority

Smoke-free Policy/Addendum to Lease

1. Department of Housing and Urban Development Rule

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 smoke-free policy. Specifically, no later than 18 months from the effective date of the rule, each PHA must implement a “smoke-free” 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.

Under the rule, a PHA’s smoke-free 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 waterpipes (hookahs).

2. Purpose of Policy

This smoke-free policy is intended to benefit the Neligh Housing Authority(NHA) and all its NHA residents, visitors and staff by mitigating a) the irritation and known adverse health effects of secondhand smoke; b) the increased maintenance, cleaning and redecorating costs from smoking; c) the increased risk of fire from smoking; and d) the higher costs of fire insurance for a smoking 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 hookah’s and marijuana, whether natural or synthetic, 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 under any other product name or descriptor.

4. NHA Campus to be Smoke-Free

All NHA properties, buildings and administrative offices shall be smoke-free. Smoking is prohibited in all living units, including any associated patios and in the common areas of the buildings, including but not limited to community bathrooms, the community room, hallways, laundry rooms, and offices. Smoking must be off campus (campus ends at all parking edges, the south and west alley's).

5. Smoking on Grounds

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 the office buildings.

6. Applicability of Policy

This policy is applicable to all residents, NHA employees, visitors, contractors, vendors and volunteers.

7. Responsibilities of the 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 NHA a written statement of any incident where tobacco or marijuana smoke or vapor from an electronic cigarette is/has migrated into the tenant's apartment from sources outside the tenant's apartment.

8. Housing Authority to Promote Smoke-free Policy

The NHA 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, the NHA shall provide copies of the policy to all tenants and prospective tenants.

9. Violations of Policy

A violation of the smoke-free policy shall be considered a material breach of the tenant's lease and grounds for enforcement actions, including eviction, by the NHA. A tenant who violates the policy shall also be liable to the NHA for the costs of repair to the tenant's apartment unit due to damage for smoke odors or residue.

The NHA will enforce this policy with three strikes. The first complaint will result in a verbal warning. The second complaint will result in a written warning and a meeting with the director. The third complaint will result in a written eviction notice.

10. Housing Authority Not Guarantor of Smoke-free Environment

The NHA adoption of this smoke-free policy does not make the NHA or any of its officers, employees or agents, the guarantor of the health of any tenant or of the smoke-free condition of the portions of its properties in which smoking is prohibited under the policy. However, the NHA will take reasonable steps to enforce the policy. The NHA is not required to take steps in response to smoking in violation of this policy unless the NHA either has actual knowledge of the smoking and the identity of the responsible tenant or has been given written notice of the smoking.

11. Housing Authority Disclaimer

The NHA adoption of this smoke-free policy does not in any way change the standard of care that the NHA would have to render buildings and premises designated as smoke-free any safer, more habitable or improved in terms of air quality standards than any other rental premises. The NHA 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. The NHA cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke or vapor. The NHA'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 the NHA does not assume any higher duty of care to enforce this policy than any other housing authority obligation under the tenants' lease agreement.