

**PUBLIC HOUSING and COMMUNITY
DEVELOPMENT**

SMOKE FREE POLICY

APPENDIX V

OF THE

**ADMISSION AND CONTINUED OCCUPANCY
POLICY (ACOP)**

Effective: ____/____/____

I. BACKGROUND

In February 2015, the Centers for Disease Control published its *Vital Signs* report on secondhand smoke, which includes but is not limited to the following findings: (1) one in four nonsmokers (58 million people) in the United States are exposed to secondhand smoke; (2) two in five children (including seven in ten Black children) are exposed to secondhand smoke; (3) one in three nonsmokers who live in rental housing are exposed to secondhand smoke; (4) secondhand smoke exposure is more common among children ages three to 11, Blacks, people living below the poverty level, and those who rent housing; (5) about 80 million Americans live in multi-unit housing and can be exposed to unwanted secondhand smoke in their home; and (6) people who live in public housing are especially affected by secondhand smoke, including children, the elderly, and people with disabilities. The United States Surgeon General has stated that there is no risk-free level of exposure to secondhand smoke and the best way to keep children and adults safe from secondhand smoke is to ban all smoking indoors. Further, nationwide there are more than 1.2 million families who reside in public housing of which there are approximately 39 percent of the public housing residents who are between the ages of zero to 17 and approximately 15 percent who are 62 or older. It has been proven that exposure to smoke, whether direct or secondhand, causes adverse health outcomes such as asthma and other respiratory illnesses, cardiovascular disease, and cancer.

The U.S. Department of Housing and Urban Development's (HUD) published a proposed rule (24 Code of Federal Regulation Parts 965 and 966) on November 17, 2015, that will require each public housing agency administering public housing programs to implement a smoke-free policy. Previously, HUD had also issued Notice PIH 2012-25 strongly encouraging housing agencies to implement a Smoke-Free Policy. Prior to the publication of the proposed rule, the Miami-Dade Board of County Commissioners, on November 3, 2015, adopted Resolution No. R-1003-15 directing the County's administration to develop a smoke-free policy in consultation with the residents and resident councils, to incorporate a smoke-free policy into the County's Fiscal Year 2016-2017 Public Housing Agency Plan, the Admissions and Continued Occupancy Policy, the public housing community policies, and the public housing lease for all public housing developments, excluding single-family public housing developments owned and operated by the County. According to surveys conducted by the Florida Department of Health in Miami-Dade County of public housing residents, 68% of the residents are in agreement with the implementation of a Smoke-Free Policy.

II. APPLICABILITY

The County's Public Housing and Community Development Department (Department) is incorporating the Smoke-Free Policy as follows:

Public Housing Program: HUD regulation 24 CFR 965 and 966 require that public housing agencies implement a policy prohibiting lit tobacco products in all living units, indoor common areas, and administrative office buildings. The smoke-free policy must also extend to all outdoor areas up to 25 feet from the housing or administrative office buildings. The smoke-free policy is included in the Admissions and Continued Occupancy Policy (ACOP) as Appendix V. The Smoke-Free Policy is also incorporated as part of the Public Housing Dwelling Lease between the "Landlord" (the County) and the "Resident", as a Lease Addendum, by completing and signing the box provided below.

Exemption: This policy shall not apply to any mixed-finance developments and privately-owned housing subsidized through the Section 8 Housing Choice Voucher Programs and Section 8 Moderate Rehabilitation Policy.

III. PURPOSE OF SMOKE-FREE POLICY

The above parties desire to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) increased maintenance, cleaning and redecorating costs from smoking; (iii) increased risk of fire from smoking; and (iv) the higher costs of fire insurance for non-smoke-free buildings.

A. Definitions

1. **Smoking:** The term “smoking” means inhaling, exhaling, breathing, or carrying or possessing any lighted cigarette, cigar, pipe, electronic cigarette, or other tobacco product or similar lighted products in any manner or in any form.
2. **Common Area:** Areas within the building interior that are open to the public, including but not limited to entryways, community patios or balconies, roof terraces, lobbies, hallways, elevators, management offices, public restrooms, community rooms, community kitchens, stairwells, playgrounds, parking garages and carports, and any other area of the building that is accessible to Resident(s), guests and employees.
3. **No Smoking Area:** The dwelling unit occupied by Resident(s) and members of Resident’s household, any interior common area, including but not limited to community rooms, community bathrooms, daycare facility, lobbies, reception areas, hallways, laundry rooms, stairways, offices and elevator, within all living units, and areas outside the building that are within 25 feet from the building or common areas including entryways, porches, balconies and patios.
4. **Designated Smoking Area:** An area designated by the Landlord.

IV. IMPLEMENTATION AND ENFORCEMENT OF SMOKE-FREE POLICY

1. Resident’s Responsibilities

- a) Resident(s) and members of the Resident’s Household shall not smoke anywhere in No Smoking Areas, including in the unit rented by Resident(s), the building where Resident’s dwelling is located, or in any of the common areas or adjoining grounds or such building including the steps, patios or yards.
- b) Resident(s) shall inform Resident’s guests of the Smoke-Free Policy and shall not permit any guests or visitors under the control of Resident to smoke in any zone designated as No Smoking Area.
- c) All smoking Resident(s) and guests are required to dispose of their smoking material in the appropriate collection receptacles provided by Landlord prior to entering any zone designated as No Smoking Area.
- d) Resident(s) shall promptly notify Landlord of any incident where smoke from tobacco, electronic cigarette, or similar products, is migrating into the Resident’s unit from sources outside the Resident’s unit.

2. Landlord’s Responsibilities

- a) Landlord shall take reasonable steps to enforce the non-smoking terms of its leases and maintain the No Smoking Area as smoke-free as is reasonably possible. Such reasonable steps include but are not limited to providing residents with orientation, warnings, housekeeping inspections, and appropriate notices of lease violations.
- b) Landlord shall post non-smoking signs at entrances and exits, in common areas, and in noticeable places adjoining the grounds of the No Smoking Area.
- c) Landlord shall provide collection receptacles at least 25 feet from entrances, exits, common areas and noticeable places adjoining the No Smoking Areas, for disposal of smoking material.

- d) Landlord shall designate specific smoking areas outside the No Smoking Areas, depending on the type of development and as permitted by availability of space.
- e) Landlord may refer Resident(s) violating the Smoke-Free Policy to the smoke cessation programs offered by the Florida Department of Health in Miami-Dade County's Tobacco Free Florida program. For more information, please contact the Florida Department of Health in Miami-Dade County's Office of Community Health and Planning at (305) 278-0442.
- f) Landlord may enforce this policy in phases within the next three (3) years, to ensure education of residents, and in accordance with the type of development (i.e., elderly, disabled developments).

3. Landlord Not a Guarantor of Smoke-Free Environment

- a) Landlord's adoption of smoke-free living environment does not make the Landlord or any of its managing agents the guarantor of Resident's health or of the non-smoking condition of the Resident's unit and the common areas.
- b) Landlord is not required to take steps in response to smoking unless Landlord is notified.

V. PENALTIES FOR VIOLATION OF SMOKE-FREE POLICY

- 1. Resident(s) acknowledges that up to two (2) Warnings will be issued by the Landlord for each reported or detected smoking incident, to be documented in the Resident's records.
- 2. After a second written Warning, Landlord will provide Resident(s) with a referral to the Florida Department of Health in Miami-Dade County's smoking cessation program and notify Resident(s), that a subsequent violation of the Smoke-Free Policy may result in assessment of fines, and ultimately in termination of housing assistance.
- 3. Resident acknowledges that there may be an assessment of a fine up to \$50.00 for each smoking incident reported to or detected by Landlord, upon verification.

VI. DISCLAIMER BY LANDLORD

- 1. Landlord specifically disclaims any implied or express warranties that the building, common areas, or Resident's premises will have any higher or improved air quality standards than any other rental property.
- 2. Landlord cannot and does not warrant or promise that the rental premises or common areas will be free from secondhand smoke.
- 3. Landlord's adoption of a smoke-free living environment does not in any way change the standard of care that the Landlord or managing agent would have to a resident household to render buildings and premises designated as non-smoking any safer, more habitable, or improved in terms of air quality standards than any other rental premises.