

# Buffalo Housing Authority Smoke Free Housing Policy

## **Purpose**

This agency-wide smoke free policy is intended to comply with HUD's smoke free requirement and to benefit the Housing Authority and all of its rental property residents, visitors, and staff by mitigating (i) the irritation and known adverse health effects of firsthand and secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs that result from smoking; (iii) the increased risk of fire from smoking; and (iv) the higher costs of fire insurance for a building that is not smoke-free.

## **Definitions**

"Smoking" is defined as the lighting, burning, inhaling, exhaling or other similar uses of tobacco or any other material in any type of smoking device or equipment. This includes, but is not limited to, cigarettes, electronic cigarettes, clove cigarettes, cigars, pipes, hookahs, bidis, and any item or device that simulates any of these products.

### Marijuana:

The agency wide Smoke Free Housing Policy includes the use of marijuana. Marijuana is a federally prohibited substance and the use and possession of marijuana, both medical and recreational is prohibited in all BHA owned and managed properties.

"Electronic Smoking Device/Electronic Cigarettes" means any product containing or delivering nicotine or any other non-prescribed medically necessary substance 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.

"Evidence" of smoking includes but is not limited to:

1. seeing a person smoke where smoking is not permitted,
2. seeing cigarette butts, an ashtray or similar container, burn marks, ashes, nicotine stains on walls or ceilings or other smoke damage on the premises,
3. staff seeing or smelling smoke during a visit, and
4. reports from neighbors about seeing or smelling cigarette-like smoke on specific dates and times,
5. seeing a person smoking in a car on BHA property.

## **Smoke Free Premises**

Smoking is prohibited in all BHA rental properties, administrative offices and on all BHA-owned properties. All dwelling 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 shall be smoke free.

Adopted: November 2022

### **Grounds of Buildings**

The smoke free requirement includes all building grounds. Smoking is prohibited anywhere on the grounds adjoining rental housing and office buildings, including entryways, patios, and yards or on the grounds adjoining BHA rental properties and office buildings

### **Applicability**

This agency-wide policy is applicable to all residents, visitors, Housing Authority employees, contractors, volunteers, and vendors.

### **Resident & Employee Responsibilities**

Residents and household members shall be responsible for enforcing this Policy as to their guests, invitees, visitors, and any other individuals that have entered BHA property for the purpose of visiting the Resident or household member. Further, a Resident shall promptly give the Housing Authority a written statement of any incident where smoke is migrating into the Resident's apartment unit from sources outside the Resident's unit.

Employees and residents who see or smell smoke anywhere on the premises of a BHA building are to report it as soon as possible. A Witness Statement for violations of the Smoke Free Housing Policy will be made available on-line and upon request.

### **Right of Residents To Sue Other Residents Who Violate Policy**

A Resident may bring legal action against another Resident related to this Smoke Free Policy, but a Resident shall not have the right to evict another Resident. Any legal action between Residents related to this Policy shall not create a presumption that the Housing Authority failed to perform its responsibilities under the Policy.

### **Violations**

A violation of the Smoke Free Housing Policy shall be considered a material breach of the Resident's Lease and grounds for enforcement actions, including eviction, by the Housing Authority. Tenant will receive a written lease violation after the first violation and will be informed that smoking on BHA property must stop immediately. A second smoking violation will result in termination of the lease and the BHA will proceed with legal enforcement actions if necessary. In the event that the tenant has other violations that are not smoking related, the second Smoke Free Housing Policy Violation notice may not be required to proceed with lease termination. A Resident who violates the Smoke Free Housing Policy shall also be charged the remediation costs listed within the Maintenance Schedule of Charges.

### **Housing Authority Not Guarantor of Smoke Free Environment**

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

The Housing Authority's failure to enforce any part of this smoke-free policy does not negate the right to enforce it in the future