

**Background:**

*I am asking the City Council to support an amendment to the City's Smoking Ordinance, ORD. # 2006-05-068, to include restrictions on smoking in multi-unit residential apartments federally or state supported subsidized housing units, disability residences, independent living units, and senior apartments.*

**Amendment to Urbana Smoking Ordinance Resolution:**

Whereas: Second-Hand Smoke is a scientifically proven health hazard. The health and safety of all residents is important, and Second-Hand Smoke affects not only seniors and those already dealing with health issues, but also those unable to move to new residences to avoid challenges to their health.

Whereas: Any multi-family residential unit housing senior citizens, and multi-family residential unit where people are receiving City, State, or Federal assistance, housing vouchers, or disability assistance, should be protected from the affects of Second-Hand Smoke at least to the same level of guests staying at a hotel or motel in Urbana, as specified by Sec. 11-37 (2), as outlined in the *Urbana City Smoking Ordinance 2006-05-068*

**Section 11-35. Prohibition of smoking in public places**

The current Smoking Ordinance restricts smoking in a list of 20 public places, which includes:

(17) "Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities."

**Sec. 11-37. Allowable Smoking Areas**

(a) Notwithstanding any other provision of this Article to the contrary, the following areas shall not be subject to the smoking restrictions:

(1) Private residences, except when used as a child care, adult day care, health care facilities, or any home-based business open to the public or having employees;

(2) Twenty percent of hotel and motel rooms rented to guests; All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms. Smoking and Non-smoking rooms shall be clearly marked on or next to their entrances. [my underline]

Whereas: Several individuals living in Multi-family residential units in Urbana have contacted me and come before the City Council to voice their concerns on the affect of Second-hand Smoke in their residence on their health, where smokers in some apartments are affecting the health of many of their neighbors.

Whereas: Air purifiers placed in affected hallways by the management in an attempt to address the complaint has not been effective.

Smoke comes up through the shared air vents from lower floors, requiring one person to try to block off the air vent to her room. Another tenant keeps the window open, even in winter, to air out their apartment. A request by several tenants to the management to address their concerns was dismissed because "Your request will place undue administrative / financial burden on the property.

Whereas: The U. S. Department of Housing and Urbana Development (HUD) issued a document May 29, 2012, "Subject: Smoke –Free Policies in Public Housing," which recognizes the damaging affect of Second-hand smoke and recommends:

(pg.3): PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion. . . Some PHAs have continued to allow new residents who smoke and continue to do so, but only in designated areas and only until lease renewal or a date established by the PHA. . . . There are more than 225 PHAs and housing commissions across the country that have implemented non-smoking policies.

Whereas: HUD supports its client residents in HUD-assisted multifamily housing project to advocate for a smoke-free environment through the "Your Rights" publication, which specifies:

- The right to live in decent, safe, and sanitary housing that is free from environmental hazards . . .

Whereas: The *Urbana City Smoking Ordinance 2006-05-068* already protects other citizens by limiting smoking rooms and permissible smoking areas:

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Therefore, to address this significant community health issue and to minimize the harmful effect that the presence of second-hand smoke has on the greater majority of tenants, I am recommending that the City adopt the following amendment to the *Urbana City Smoking Ordinance 2006-05-068*

**Sec. 11-37. Allowable Smoking Areas.** *(new text is underlined as follows:)*

(3) **Those covered:** All residential apartment buildings housing residents receiving City, State, or Federal rent assistance, housing vouchers, or disability income assistance, and senior residents (as indicated in the table below), shall limit the number and location of smoking units, not to exceed 10 percent of the total residential apartment units in the building.

(a) **Separation standards:** Residential smoking-allowed apartment units must be located on the same floor and must be aggregated adjacent to each other, or must be located in a separate wing of the building dedicated for smoking apartment units. Smoke from smoking-allowed apartment units must not infiltrate via hallways or ventilation shafts into any areas where there are non-smoking tenants.

(b) Buildings with all non-smoking apartment units shall remain non-smoking.

**Sec. 11-38. Table of Residential Units Covered by this Ordinance:**

(1) Project-based Section 8

a. New Construction

b. State Agency Financed

c. Substantial Rehabilitation

d. Section 202/8

e. Rural Housing Services Section 515/8

f. Loan Management Set-Aside (LMSA)

g. Property Disposition Set-Aside (PDSA)

(2) Rent Supplement

(3) Section 202/162 Project Assistance Contract (PAC)

(4) Section 202 Project Rental Assistance Contract (PRAC)

(5) Section 811 PRAC

(6) Section 811 Project Rental Assistance Demonstration units under a Rental Assistance Contract

(7) Section 236

(8) Rental Assistance Payment (RAP)

(9) Section 221(d)(3) Below Market Interest Rate (BMIR)

**Sec. 11-38. Notice and Timely Separation:**

(1) Property owners shall notify all tenants of the change in the Urbana Smoking Ordinance regarding:

(a) The limits placed on smoking in the residence.

(b) The separation of smoking tenants from non-smoking tenants.

(2) Property owners shall include text acknowledging the non-smoking requirements which apply to the residence in all leases signed after initiation date of this ordinance.

(3) As of July 1, 2015, smoking tenants will be required to relocate *at the end of their annual lease agreement with the management* to units in the building designated for smoking, as outlined in the Separation Standards, above, or to relocate to a residence building where smoking is allowed. Any smoking units thus vacated will be reconditioned and assigned/leased only to non-smoking residents.

(4) Violations:

(a) Smoking in non-smoking resident units will be deemed a violation of the lease agreement and subject to immediate remediation or ultimate termination of tenancy.

*(re-number sections following these additions)*

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Supporters of such a measure:

54% of the residents of the Edge of the Mall residence, Race and Illinois Streets, Urbana  
Dr. Sujay Bangarulingam, MD, Pulmonary Medicine. Carle Physician Group, North Clinic Bldg.  
Terra McCally, Nikki Hillier, C-UPHD staff member  
Kathy Drea, formerly with the American Lung Association

## Tenants of Edge of Mall Apartments for a Smoke-free Building

- According to the HUD Rights handbook received when renting an apartment the tenant has “The right to live in decent, safe, and sanitary housing that is free from environmental hazards such as lead-based paint hazards.”
- A Carle Pulmonologist called secondhand smoke an environmental hazard. Although the management has installed air purifiers on the third and fifth floors the Pulmonologist and public health contend that air purifiers are not effective in removing secondhand smoke.
- There are several tenants with health issues including respiratory diseases that are exacerbated by secondhand smoke.
- The US surgeon general has concluded there is no safe level of exposure to secondhand smoke. In addition the California air resources board declared secondhand smoke a “toxic air contaminant” which means that it causes and or contributes to death or serious illness. Out of 438,000 smoke-caused deaths last year fifty thousand were non-smokers. <sup>There's No</sup>  
Constitutional Right to Smoke, Samantha K. Graff
- According to the HUD Rights booklet that new tenants receive it says that tenants have the responsibility to report a hazardous environment. Attached are two pages from this booklet.
- Smokers cause a huge financial burden on Pacific Management. Flipping a smoker's apartment costs twice as much as a non-smoker's apartment and many hours of overtime; new carpet and tile, cleaning electrical outlets and switches, kitchen hood fan, bathroom exhaust fan, new blinds, chemical treatment of walls and ceiling, cabinets and closets, before applying two coats of paint.

We the tenants of Edge of Mall would like to have this building go smoke-free.  
Secondhand smoke is a detriment to our health.

Bj Ross #307  
Ang L. Stevens #503  
Wanderson, Coy 212  
MK #207  
Priscilla Paul 114  
Thomas M Rhodes #111  
N. Novotzova #106  
F. Oermegier'adri #102  
Paul Walker #108  
Virginia Martin #408  
Alice Kurowski 407  
Naohly A M Gaudin 403  
Betty L Mackey 406  
Marilyn Ginner 411  
Bonnie Schneider 415  
Paul Schuman 412  
Phil Wank 511  
Charlotte A Early 514  
Imogene Boye 507  
Linda Cope 504  
Linda L Mayhew 302

Paula Vanier 1107  
Jenny Allen 104  
James Smith #511  
John Shapiro  
Donita Milano  
Ann M. Felie

What people do in their own apartment is up to them. Keep no smoking in the hallways and first floor like it has always been. Management should be putting people apartments accordingly. For instance, lady moving in let management know she was allergic to smoking. Management should not put that lady across from smoker.

Smoking is out of control in this building! Everone's apartment smells like stale smoke.

Q. 2 - No people ever come to visit. Q. 8 - No Q. 9 - Yes

My lease in 2009 allowed me to smoke. I am grandfathered in- you cannot stop my priveledge in wrting to discontinue. How can you do this survey without Donna or Pacific management knowing- If you want to do any survey, do one to get Barb out- she affects everyone's health. I will be waiting for that one.

Q. 4 a little but not really Q. 7 people who smoke should be allowed to smoke only in their apartments. Block the door from smoke going into the hallways. If there is no smoking in building, then they should be allowed to smoke on property outside or in vehicle if have one.

4 Q. I need to use my two inhalers more when I smell it, even a little bit. Q. 5 I developed asthma and emphysema from second-hand smoke. Q. 6 we have people on oxygen and it is dangerous to have smoking around them. For their ability to breathe properly and dangers of fire. Q. 7 Smoke travels from apartments into hallways, so we still smell it. I very strongly believe we need to be smoke-free! We as seniors have enough health issues; we don't need more or any worsening.

A lot of smoking indoor make me sick. The smoke comes inside my apartment. It makes me ill.

Q. 8 Don't care about outside

Q. 9 I am not familiar with them. Q. 10 I don't know. Q. 11 I don't know. I am allergic to cigarette smoke and have been very ill this past year. The smoke comes into my apartment and is in the hall and elevator.

If these e-cigarettes satisfy their smoking habit, they cannot be healthy. Therefore, I would not want that smoke around either.

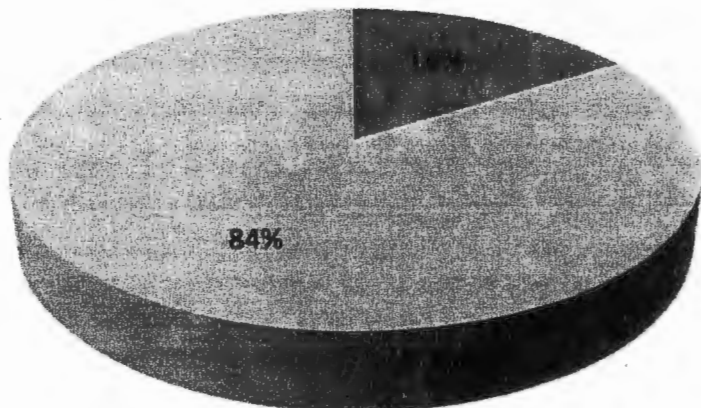
Q. 6 no Q. 9 yes. Never smell smoke from other apartments. They have the right to smoke in their apartment.

Q. 11 not enough research has been done. Best to error on the side of caution. Smokers have a right to abuse their own bodies. However, cigarette smoke will not be confined to their apartment. It will seep, whatever we do to prevent it, into non-smokers apartments with the very real possibility of causing painful, even life-threatening illnesses and high medical bills. Perhaps smokers and apartment complex owners can be pressured to help pay for these bills.

The answers to these questions are none of your business! What I do in my own home is not for a bunch of strangers to decide!! I don't smoke now, but have in the past, however, I dont think badly of those who do. I think people need to mind their own business and quit finding reasons to pick people's lives apart. We all pay rent here and should be allowed to smoke or not snoke in our own homes! This is exactly why I don't get involved in tenant meetings because its just a way to gossip and try to dictate residents' lives! Find something better to do with your lives! This survey is insulting!! Are you going to try and regulate what we eat or drink next?? Or how much we exercise? leave people alone and let them live their lives!! Let's talk about people turning the hall heat on full blast making it like a sauna so one can hardly breathe! Let's talk about how people can't seem to park between the lines of the bank parking lot! Let's talk about how one can hardly "breathe" in their own home without someone who has nothing better to do complaining about it!

**Do you now smoke cigarettes or other tobacco products every day, some days, or not at all?**

■ Every day    ■ Some days    ■ Not at all



**Do you allow people, including yourself, to smoke tobacco products in your apartment?**

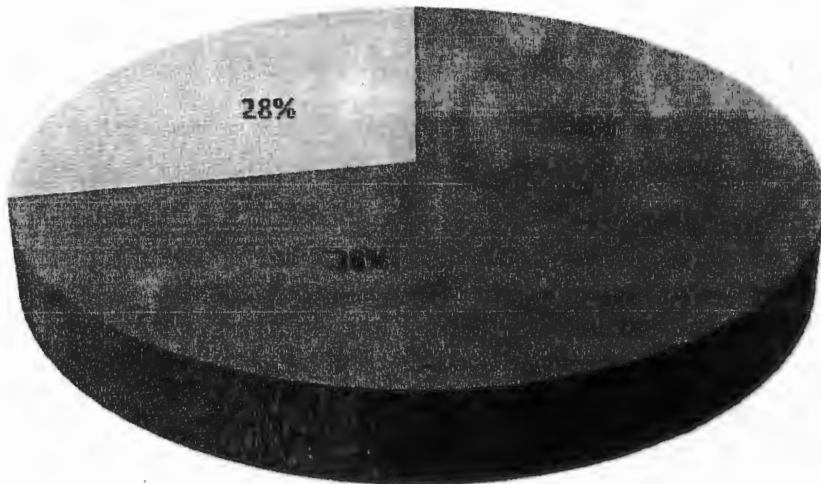
■ Yes    ■ No





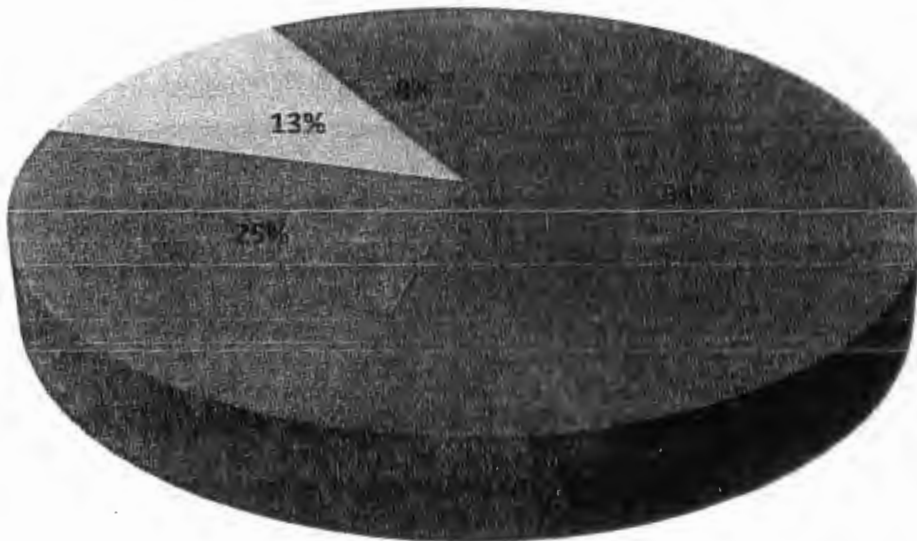
### How often have you smelled tobacco smoke in your home that comes from another apartment?

■ Often   ■ Sometimes   ■ Never



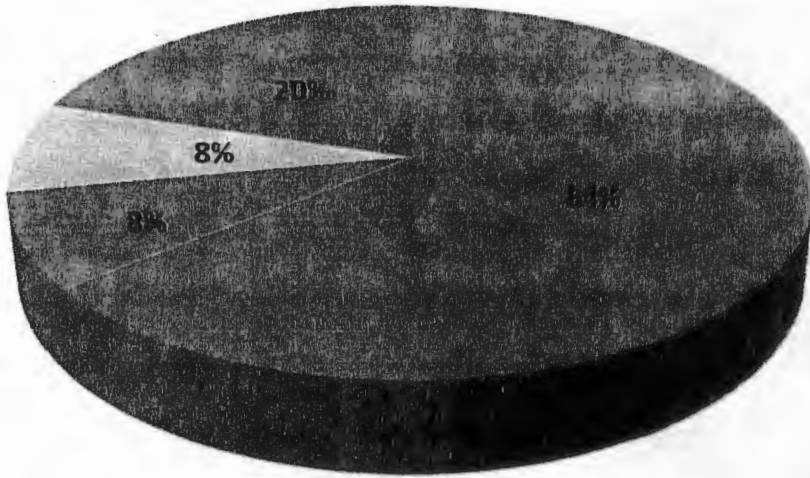
### Smelling tobacco smoke in your home bothers you.

■ Strongly Agree   ■ Agree   ■ Disagree   ■ Strongly Disagree



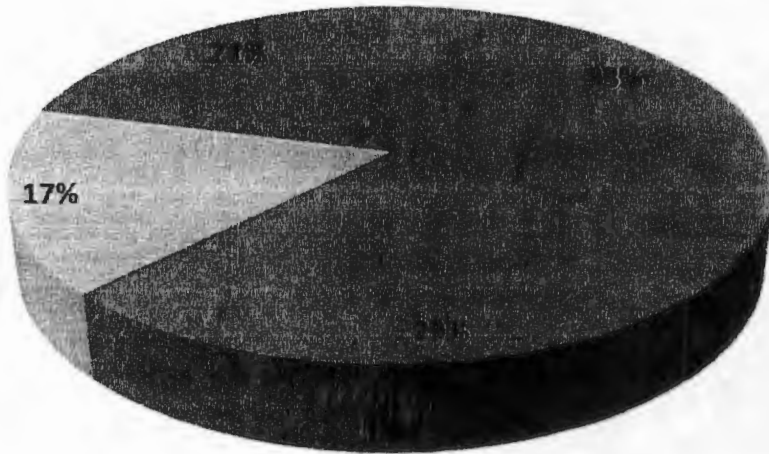
### You would like this building to be smoke-free.

■ Strongly Agree   ■ Agree   ■ Disagree   ■ Strongly Disagree



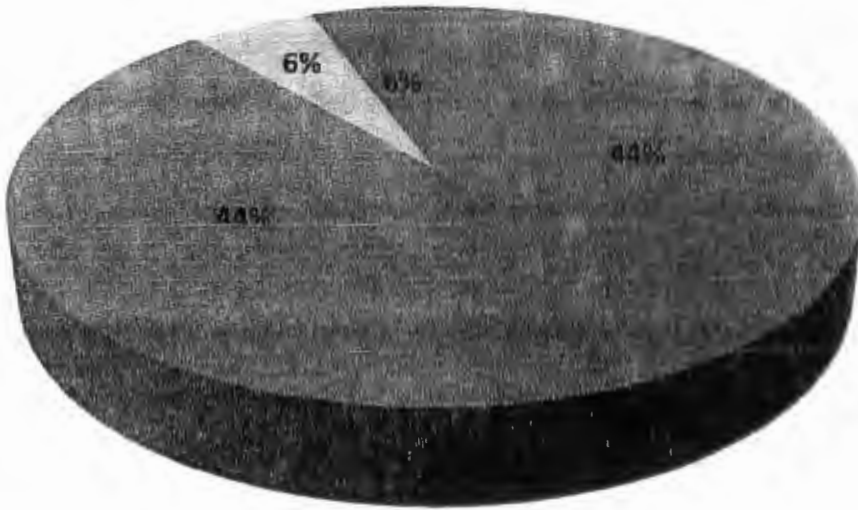
### You would prefer that smoking is prohibited everywhere on the property- both inside and outside.

■ Strongly Agree   ■ Agree   ■ Disagree   ■ Strongly Disagree



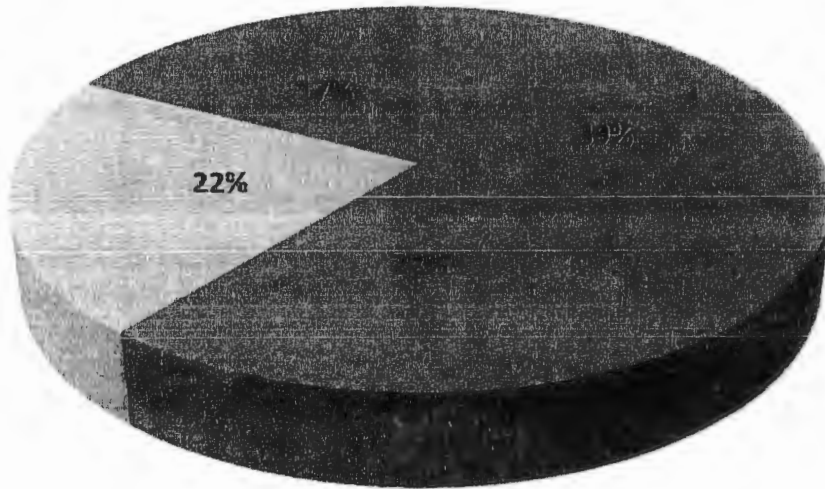
## You are familiar with e-cigarettes.

■ Strongly Agree   ■ Agree   ■ Disagree   ■ Strongly Disagree



## E-cigarette smoking should not be allowed indoors at Edge of Mall.

■ Strongly Agree   ■ Agree   ■ Disagree   ■ Strongly Disagree



# Your Rights

As a resident of a HUD-assisted multifamily housing project, you should be aware of your rights.

## Rights

### Involving Your Apartment

- ☆ → • The right to live in decent, safe, and sanitary housing that is free from environmental hazards such as lead-based paint hazards.
- The right to have repairs performed in a timely manner, upon request, and to have a quality maintenance program run by management.
- The right to be given reasonable notice, in writing, of any nonemergency inspection or other entry into your apartment.

## Rights

### Involving Resident Organizations

- The right to organize as residents without obstruction, harassment, or retaliation from property owners or management.
- The right to post materials in common areas and provide leaflets informing other residents of their rights and of opportunities to involve themselves in their project.
- The right, which may be subject to a reasonable, HUD-approved fee, to use appropriate common space or meeting facilities to organize or to consider any issue affecting the condition or management of the property.
- The right to meet without the owner/manager present.
- The right to be recognized by property owners and managers as having a voice in residential community affairs.

## Rights

### Involving Nondiscrimination

The right to equal and fair treatment and use of your building's services and facilities, without regard to race, color, religion, gender, disability, familial status (children under 18), national origin (ethnicity or language), or in some circumstances, age.

# Your Responsibilities

As a resident of a HUD-assisted multifamily housing project, you also have certain responsibilities to ensure that your building remains a suitable home for you and your neighbors. By signing your lease, you and the owner/management company have entered into a legal, enforceable contract. You and the owner/management company are responsible for complying with your lease, house rules, and local laws governing your property. If you have any questions about your lease or do not have a copy of it, contact your management agent or your local HUD field office.

## Responsibilities

### to Your Property Owner or Management Agent

- Complying with the rules and guidelines that govern your lease.
- Paying the correct amount of rent on a timely basis each month.
- Providing accurate information to the owner at the certification or recertification interview to determine your total tenant payment, and consenting to the release of information by a third party to allow for verification.
- Reporting changes in the family's income.

## Responsibilities

### to the Project and to Your Fellow Residents

- Conducting yourself in a manner that will not disturb your neighbors.
- Not engaging in criminal activity in the unit, common area, or grounds.
- Keeping your unit clean and not littering the grounds or common areas.
- Disposing of garbage and waste in a proper manner.
- Complying with local codes that affect the health or safety of the residence.
- Maintaining your apartment and common areas in the same general physical condition as when you moved in.
- Reporting any apparent environmental hazards to the management, such as peeling paint—which is a hazard if it is a lead-based paint—and any defects in building systems, fixtures, appliances, or other parts of the unit, the grounds, or related facilities.

**AN ORDINANCE AMENDING CHAPTER 11, HEALTH AND SANITATION,  
OF THE URBANA CITY CODE IN RELATION TO SMOKING  
IN PUBLIC PLACES AND PLACES OF EMPLOYMENT**

WHEREAS, it is recognized by the Urbana City Council, the scientific and medical community, the Surgeon General of the United States, and the United States Environmental Protection Agency that exposure to ambient smoke in enclosed environments has been shown to constitute a significant health risk to anyone exposed to such smoke; and

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease in healthy nonsmokers, and is particularly hazardous to elderly people, individuals with cardiovascular disease, impaired respiratory function, as well as increasing the risk of heart attack, stroke, respiratory disease, lung cancer, and numerous health problems in children; and

WHEREAS, there is no safe level of exposure to secondhand smoke, and a recently promulgated American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Position Document on Environmental Tobacco Smoke concludes that at present, the only means of eliminating health risks associated with indoor exposure is to ban all smoking activity; and

WHEREAS, the purpose of this Ordinance is to protect the public health, comfort and environment by prohibiting smoking in public places and places of employment; and

WHEREAS, the Urbana City Council held a public hearing, and public study session on a draft no-smoking proposal and determined that the public health, life and safety of the citizens of Urbana requires the enactment of substantial changes to the Health and Sanitation Code of the City of Urbana, in regard to prohibitions on smoking in public places and places of employment.

**Safer Apartments. Happier Tenants. Healthier Families.**



## **SMOKE-FREE HOUSING**

Did you know:

- Apartment turnover costs are as much as 7 times greater when smoking is allowed.
- Smoking is the leading cause of home fire deaths.
- Implementing a smoke-free policy could save you money on property casualty insurance.
- There is no legal barrier to enforcing a smoke-free policy.



The Public Health District will work with you **every step of the way** to adopt a smoke-free policy.

**Let us help you:**

- Organize and hold tenant meetings.
- Write or amend lease agreements.
- Supply smoke-free signage.
- Provide smoking cessation resources.

*For more information, contact:*

Tara McCauley, Special Projects Coordinator  
201 W. Kenyon Rd., Champaign, IL 61820  
217-531-4252, [tmccauley@c-uphd.org](mailto:tmccauley@c-uphd.org)



**Public Health**  
Prevent. Promote. Protect.

**Champaign-Urbana Public Health District**

# Champaign County Smoke-Free Housing Directory

Property Owner	Street Address	City/State	Zip code	Phone	Website	Housing Type	Include in C-UPHD Directory
217 Midtown	202 E. Green St., Suite 4	Champaign, IL	61820	217-355-8300	www.217midtown.com	Privately-owned	X
3:12 House, Stratford House, Kolonia Christian Cooperative House	312 E Daniel St	Champaign, IL	61820	217-344-0484 x 202	www.uofibaptist.org	U of I Private Certified Housing (Residence Hall)	X
309 Green (American Campus Communities)	309 E. Green St, Suite 103	Champaign, IL	61820	217-366-3500	www.309green.com	Privately-owned	X
519 E. Green (Bankier Apartments)	519 E. Green St.	Champaign, IL	61820	217-328-3770	www.bankierapts.com/?86,519-e.-green-st.-champaign	Privately-owned	X
75 Armory (Next Chapter Properties)	512 S. Neil St., Suite C	Champaign, IL	61820	217-356-3511	www.75armory.com	Privately-owned	X
Abe Lincoln Realty	1010 S. Second	Champaign, IL	61820	217-384-0333	(blank)	Privately-owned	X
Atrium Apartments (Green Street Realty)	1306 N. Lincoln Ave.	Urbana, IL	61801	217-328-5122	greenstrealty.com/listing-profile/1306-n-lincoln/588/	Privately-owned	X
Campustown Rentals (American Campus Communities)	309 E. Green St., Suite 103	Champaign, IL	61820	217-366-3500	campustownrentals.com	Privately-owned	X
Capstone Quarters (Green Street Realty)	1901-1905 N. Lincoln Ave	Urbana, IL	61801	217-367-7368	capstonequarters.com	Privately-owned	X
Cox Properties	507 W. Main St	Urbana, IL	61801	217-384-1934	None	Privately-owned	X
Eastview Apartments	806 W. Green St.	Urbana, IL	61801	217-377-1197	www.eastview-apt.com	Privately-owned	X
Europa House	802 W. Oregon St.	Urbana, IL	61801	217-344-6340	www.europa-house.org	U of I Private Certified Housing (Residence Hall)	X
Fairlawn Village (Team Kay Property Management)	PO Box 1665	Champaign, IL	61824	217-378-2800	www.teamkaycu.com	Privately-owned	X
Hendrick House	904 W Green St	Urbana, IL	61801	217-365-8000	www.hendrickhouse.com	U of I Private Certified Housing (Residence Hall)	X
Illini Tower	409 E Chalmers St	Champaign, IL	61820	217-344-0400	www.illinitower.net	U of I Private Certified Housing (Residence Hall)	X
Kellner Rental Properties	P.O. Box 3402	Champaign, IL	61826-3402	217-621-8388	kellner.managebuilding.com	Privately-owned	X
Kennedy-Wilson	312 W. Springfield, Suite 100	Urbana IL	61801	217-384-5555	http://www.kennedywilson.com/uiuc	Privately-owned	X
Lincolnshire Properties	P.O. Box 6744	Champaign, IL	61826	217-398-1998	www.lincolnshireprop.com	Privately-owned	X
Loft 54 (American Campus Communities)	309 E. Green St.	Champaign, IL	61820	217-366-3500	lofts54.com	Privately-owned	X
Marshall Apartments	1911 Trout Valley	Champaign, IL	61822	217-356-1407	champaignmarshallapartments.com	Privately-owned	X
Newman Hall	604 E. Armory Ave	Champaign IL	61820	217-344-1266	www.newmanhall.org	U of I Private Certified Housing (Residence Hall)	X
Old Towne Apartments, LLC	1115 Foothill Dr.	Champaign, IL	61821	217-356-0017	www.oldtowneapts.com	Privately-owned	X
Parkside Apartments	1205 E. Florida Ave.	Urbana, IL	61802	217-344-2072	www.cuparkside.com	Privately-owned	X
Parkstone Villas (US Property)	600 E Ficklin St	Tuscola, IL	61953	217-383-0800	www.parkstonevillastuscola.com	Privately-owned	X
Parkview Senior Homes	100 Parkview Ln.	Savoy, IL	61874	217-352-3938	www.parkviewseniorapartments.com	Privately-owned	X
Rent Champaign	705 S. Glover Ave.	Urbana, IL	61802	217-328-2792	www.rentchampaign.com	Privately-owned	X - Some Buildings
Rob's Apartments	P.O. Box 714	Savoy, IL	61874	217-840-5134	www.RobsApartments.com	Privately-owned	X - Some Buildings
Roland Realty	901 S. First St.	Champaign, IL	61820	217-351-8900	www.roland-realty.com	Privately-owned	X
Smith Apartments	604 W. Stoughton #12	Urbana, IL	61801	217-384-1925	www.smithapartments-cu.com	Privately-owned	X
Stone Ridge Square Apartment Community	1714 E. Colorado Ave.	Urbana, IL	61802	217-337-6567	www.stoneridgesquare.com	Privately-owned	X
Taylor Realty (Re-Max)	116 S. Lombard St.	Mahomet, IL	61853	217-355-0700	www.taylor-realty.com	Privately-owned	X
Team Kay Property Management (Keller Williams)	2441 Village Green Place	Champaign, IL	61822	217-378-2800	www.teamkaycu.com	Privately-owned	X
The Point at UI	1601 E. Florida Ave.	Urbana, IL	61802	217-337-3901	www.pointe-ui.com	Privately-owned	X
The Tower at 3rd (American Campus Communities)	302 E. John St., Suite 100	Champaign, IL	61820	217-367-0720	www.tower3rd.com	Privately-owned	X
The University Group	309 S. First	Champaign, IL	61820	217-352-3182	www.ugroupcu.com	Privately-owned	X
University YMCA	1001 S Wright Street	Champaign, IL	61820	217-337-1500	www.universityymca.org/ui_certified_housing	U of I Private Certified Housing (Residence Hall)	X
Windsor West (Regency Apartments)	2502 Fields South Dr.	Champaign, IL	61822	217-351-0973	www.windsorwest.com	Privately-owned	X - Some Buildings





**U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
Office of Healthy Homes and Lead Hazard Control**

**SPECIAL ATTENTION OF:**

Regional Directors; State and Area  
Coordinators; Public Housing Hub  
Directors; Program Center Coordinators;  
Troubled Agency Recovery Center Directors;  
Special Applications Center Director;  
Public Housing Agencies;  
Resident Management Corporations;  
Healthy Homes Representatives

**NOTICE: PIH-2009- 21 (HA)**

Issued: July 17, 2009

Expires: July 31, 2010

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Cross Reference:  
24 CFR 903.7(b)(3)  
24 CFR 903.7(e)(1)

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Subject: Non-Smoking Policies in Public Housing

1. **Purpose.** This notice strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units. According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with chronic illnesses, are especially vulnerable to the adverse effects of smoking. This concern was recently addressed by the Family Smoking Prevention and Tobacco Control Act, P.L. 111-31, signed by the President on June 22, 2009. Because Environmental Tobacco Smoke (ETS) can migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families, the Department is encouraging PHAs to adopt non-smoking policies. By reducing the public health risks associated with tobacco use, this notice will enhance the effectiveness of the Department's efforts to provide increased public health protection for residents of public housing. Smoking is also an important source of fires and fire-related deaths and injuries. Currently, there is no Departmental guidance on smoking in public housing.

2. **Applicability.** This notice applies to Public Housing.

3. **Background.** Secondhand smoke, which is also known as environmental tobacco smoke (ETS), is the smoke that comes from the burning end of a cigarette, pipe or cigar, and the smoke exhaled from the lungs of smokers. ETS is involuntarily inhaled by nonsmokers, and can cause or worsen adverse health effects, including cancer, respiratory infections and asthma. The 2006 Surgeon General's report on secondhand smoke identifies hundreds of chemicals in it that are known to be toxic. The report (*The Health Consequences of Involuntary Exposure to Secondhand Smoke*) is located at [www.cdc.gov/tobacco/data\\_statistics/sgr/index.htm](http://www.cdc.gov/tobacco/data_statistics/sgr/index.htm). Secondhand smoke causes almost 50,000 deaths in adult non-smokers in the United States each year, including approximately 3,400 from lung cancer and another 22,000 to 69,000 from heart disease.

Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke according to the U.S. Environmental Protection Agency (EPA)  
[www.epa.gov/smokefree/healtheffects.html](http://www.epa.gov/smokefree/healtheffects.html).

There are over 1.2 million residents who reside in public housing. Residents between the ages of 0-17 represent 39 percent of public housing residents. Elderly residents over the age of 62 represent 15 percent of public housing residents. That accounts for at least 54 percent of public housing residents that could be at increased risk to the adverse effects of cigarette smoking. There are also a considerable number of residents with chronic diseases such as asthma and cardiovascular disease who are particularly vulnerable to the effects of ETS. Secondhand smoke lingers in the air hours after cigarettes have been extinguished and can migrate between units in multifamily buildings.

Based on data from the U.S. Fire Administration (USFA) of the Department of Homeland Security, there were an estimated 18,700 smoking-material fires in homes in 2006. These fires caused 700 civilian deaths (other than firefighters'), and 1,320 civilian injuries, and \$496 million in direct property damage [www.nfpa.org/assets/files/PDF/OS.Smoking.pdf](http://www.nfpa.org/assets/files/PDF/OS.Smoking.pdf). In multifamily buildings, smoking is the leading cause of fire deaths: 26 percent of fire deaths in 2005 [www.usfa.dhs.gov/downloads/pdf/publications/Residential\\_Structure\\_and\\_Building\\_Fires.pdf](http://www.usfa.dhs.gov/downloads/pdf/publications/Residential_Structure_and_Building_Fires.pdf).

4. **Policy Discretion** PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law. Some PHAs have established smoke-free buildings. Some PHAs have continued to allow current residents who smoke to continue to do so, but only in designated areas and only until lease renewal or a date established by the PHA. Some PHAs are prohibiting smoking for new residents. According to a state-funded anti-smoking group, the Smoke-Free Environment Law Project of the Center for Social Gerontology, there are over 112 PHAs and housing commissions across the country that have implemented non-smoking policies. PHAs should consult with their resident boards before adopting non-smoking policies at their projects.

5. **PHA Plans**. PHAs opting to implement a non-smoking policy should update their PHA plans. According to 24 CFR 903.7(e), their plan must include their statement of operation and management and the rules and standards that will apply to their projects when the PHA implements their non-smoking policy. PHAs are encouraged to revise their lease agreements to include the non-smoking provisions. If PHAs institute non-smoking policies, they should ensure that there is consistent application among all projects and buildings in their housing inventory in which non-smoking policies are being implemented.

6. **Indoor Air Quality (IAQ)**. According to the U.S. Green Building Council (USGBC), toxin-free building materials used in green buildings help combat indoor air pollution. Good IAQ includes minimizing indoor pollutants. As discussed above, ETS is known to be an indoor air pollutant; as a result it would be difficult for a PHA to achieve good IAQ in its buildings if residents are allowed to smoke, especially indoors. During construction or renovation of projects, PHAs should consider actions such as installing direct vent combustion equipment and fireplaces; providing for optimal, controlled, filtered ventilation and air sealing between living areas and garage or mechanical areas, and the use of paints and other materials that emit no or low levels of volatile chemicals (volatile organic compounds or VOCs). Since 65 percent of the public housing inventory was built prior to 1970, it would be hard for a PHA to implement retrofits that could improve IAQ significantly, unless renovation was scheduled. Also, if a PHA does conduct renovations to improve IAQ without also implementing a non-smoking policy, the IAQ benefits of the renovation would not be fully realized. A non-smoking policy is an excellent approach for those PHAs that are trying to achieve improved IAQ without the retrofit costs.

7. **Maintenance.** It is well known that turnover costs are increased when apartments are vacated by smokers. Additional paint to cover smoke stains, cleaning of the ducts, replacing stained window blinds, or replacing carpets that have been damaged by cigarettes can increase the cost to make a unit occupant ready. View the Sanford Maine Housing Authority case study at <http://www.smokefreeforme.org/landlord.php?page=Save+Money%2C%3Cbr%3ESave+Your+Building>.

8. **Smoking Cessation National Support.** Because tobacco smoking is an addictive behavior, PHAs that implement non-smoking policies should provide residents with information on local smoking cessation resources and programs. Local and state health departments are sources of information on smoking cessation; see the American Lung Association's (ALA's) Web page on State Tobacco Cessation Coverage [www.lungusa2.org/cessation2](http://www.lungusa2.org/cessation2) for information on cessation programs, both public and private, in all States and the District of Columbia. The National Cancer Institute's Smoking Quit Line can be called toll-free at 877-44U-QUIT (877-448-7848). Hearing- or speech-challenged individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. PHAs that implement non-smoking policies should similarly be persistent in their efforts to support smoking cessation programs for residents, adapting their efforts as needed to local conditions.

9. **Further Information.** For further information related to this notice, please contact Dina Elani, Director, Office of Public Housing Management and Occupancy Division at (202) 402-2071.

/s/

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Sandra B. Henriquez  
Assistant Secretary for Public and Indian  
Housing

/s/

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Jon L. Gant,  
Director, Office of Healthy Homes and  
Lead Hazard Control



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000

SEE PAGE 2 - APPLICABILITY FOR HUD SUPPORTED UNITS

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

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Special Attention of:

Multifamily Hub Directors  
Multifamily Program Center Directors  
Rural Housing Services (RHS) Directors  
Supervisory Housing Project Managers  
Housing Project Managers  
Contract Administrators  
Multifamily Owners and Management Agents

NOTICE: H 2012-22

Issued: October 26, 2012

Expires: This notice remains in effect until amended, revoked, or superseded

Cross References: H 2010-21

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Subject: Further Encouragement for O/As to Adopt Optional Smoke-Free Housing Policies

I. Purpose

Many owners and management agents (O/As) participating in one of the Multifamily Housing rental assistance programs listed in Section III of this Notice have taken steps to implement smoke-free housing policies in some or all of the properties they own/manage since the issuance of Housing Notice 2010-21. The purpose of this Notice is to further encourage the adoption of smoke-free housing policies by O/As who have not yet chosen to do so. The guidance found in this Notice for O/As choosing to implement a smoke-free housing policy has not changed from Housing Notice 2010-21.

II. Background

Exposure to smoke, whether direct or secondhand, causes adverse health outcomes such as asthma and other respiratory illnesses, cardiovascular disease, and cancer. The 2010 Surgeon General's Report – *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease* supports this statement by explaining that low levels of smoke exposure, including exposure to secondhand smoke, lead to a rapid and sharp increase in dysfunction and inflammation of the lining of blood vessels, which are implicated in heart attacks and strokes. Additionally, the report states that cigarette smoke contains more than 7,000 chemicals and compounds. Hundreds of these chemicals and compounds are toxic and at least 69 cause cancer.

In 2006, the U.S. Department of Health and Human Services published *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. This document expounds on health effects due to involuntary exposure to tobacco smoke. The report defines secondhand smoke, in the past referred to as environmental

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tobacco smoke (ETS), as smoke composed of sidestream smoke (the smoke released from the burning end of a cigarette) and exhaled mainstream smoke (the smoke exhaled by the smoker). The report lists several major conclusions, all based on scientific data, including the following: 1) The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke; and 2) Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke.

Below are relevant statistics and conclusions from *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*.

- According to a 2005 estimate by the California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, approximately 50,000 excess deaths result annually in the United States from exposure to secondhand smoke.
- Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome, acute respiratory infections, ear problems, and more severe asthma.
- Secondhand smoke has been designated as a known human carcinogen (cancer-causing agent) by the U.S. Environmental Protection Agency, National Toxicology Program and the International Agency for Research on Cancer.
- Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer.
- Nonsmokers who are exposed to secondhand smoke at home or at work increase their risk of developing heart disease by 25-30 percent.
- Nonsmokers who are exposed to secondhand smoke at home or at work increase their risk of developing lung cancer by 20-30 percent.

The United States Fire Administration (USFA) indicates smoking as the number one cause of preventable home fire deaths in the United States. Furthermore, about 1,000 people are killed every year in their homes by fires caused by cigarettes and other smoking materials. The USFA states 25 percent of people killed in smoking-related fires are not the actual smokers; of this percentage, more than one third of these victims were children of the smokers, and 25 percent were neighbors or friends of the smokers. In addition to the negative health effects of secondhand smoke, smoking is a proven hazard to physical structures.

### III. Applicability

This Notice applies to:

- A. Project-based Section 8
  1. New Construction
  2. State Agency Financed
  3. Substantial Rehabilitation

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4. Section 202/8
  5. Rural Housing Services Section 515/8
  6. Loan Management Set-Aside (LMSA)
  7. Property Disposition Set-Aside (PDSA)
- B. Rent Supplement
  - C. Section 202/162 Project Assistance Contract (PAC)
  - D. Section 202 Project Rental Assistance Contract (PRAC)
  - E. Section 811 PRAC
  - F. Section 811 Project Rental Assistance Demonstration units under a Rental Assistance Contract
  - G. Section 236
  - H. Rental Assistance Payment (RAP)
  - I. Section 221(d)(3) Below Market Interest Rate (BMIR)

#### IV. Update to House Rules/Policies and Procedures

O/As choosing to implement a smoke-free housing policy must update their House Rules and Policies and Procedures, as applicable, to incorporate the smoke-free housing requirements. O/As are encouraged to establish smoke-free policies that pertain specifically to their buildings and grounds including any common areas, entry ways, openings to the buildings (e.g. windows), and/or playground areas.

In carrying out any smoke-free housing policy, O/As must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105, including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title II of the American Disabilities Act; Section 109 of the Housing and Community Development Act of 1974.

#### V. Requirements for Implementing Smoke-free Housing Policies

O/As who choose to establish smoke-free housing policies may establish policies that allow smoking in individual units but prohibit smoking in all common areas or policies to create a totally smoke-free property.

A. The O/A's policies must:

1. Be in accordance with state and local laws.
2. Address smoking in a tenant's unit, common areas, playground areas, areas near any exterior window or door, and areas outside a tenant's unit.
3. Designate specific smoking areas and identify these areas with clear signage unless the O/A establishes a totally smoke-free policy.

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B. The O/A must not have policies that:

1. Deny occupancy to any individual who smokes or to any individual who does not smoke who is otherwise eligible for admission.
2. Allow the O/A to ask at the time of application or move-in whether the applicant or any members of the applicant's household smoke. However, if the O/A has established a smoke-free building as of a certain date, the O/A must inform applicants after that date that the property is totally smoke-free. The O/A must not maintain smoking or nonsmoking specific waiting lists for the property.
3. Allow the O/A to ask at the time of recertification, whether the tenant or any members of the tenant's household smoke.
4. Require existing tenants, as of the date of the implementation of the smoke-free housing policies, to move out of the property or to transfer from their unit to another unit.

C. Grandfathering

O/As are not required to grandfather current tenants living at their properties, however, they do have the option to do so. Such policies must be clearly defined (e.g. whether current tenants are allowed to smoke in their units).

D. Non-smoking wings, buildings, floors, or units

O/As are not restricted from establishing smoke-free wings, buildings, floors, and/or units at their property. When a unit becomes available, regardless of where this unit is located, it must be offered to the first eligible household on the waiting list. Waiting lists must be maintained (including the removal of names from the waiting list) according to existing procedures found in HUD Handbook 4350.3 REV-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs*, Chapter 4.

O/As who have already established smoke-free policies may continue to enforce their current policies so long as the policies do not violate state or local laws or any of the above guidance.

## VI. Implementation

O/As must implement any new smoking-related House Rules in accordance with HUD Handbook 4350.3 REV-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs*, paragraphs 6-9 and 6-12.

- A. **New admissions.** O/As are required by existing HUD policies to provide the House Rules to all new tenants.

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- B. Existing tenants. O/As must notify existing tenants, who have completed their initial lease terms, of the modifications to the House Rules 30 days prior to implementation. Notification is accomplished by forwarding a copy of the revised House Rules to existing tenants. For those tenants who have not yet completed their initial lease terms, the owner must provide the tenant with 60 days notice, prior to the end of their lease terms, of the change in the House Rules.

Communications to applicants and existing tenants regarding smoke-free housing policies must be provided in a manner that is effective for persons with disabilities, see 24 CFR § 8.6, and for persons who have limited English proficiency. O/A's should refer to HUD's published *Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (LEP Guidance)(72 FR 2732) for assistance and information regarding LEP obligations.

## VII. Penalties for Violating the House Rules

Repeated violations of the non-smoking policy may be considered material noncompliance with lease requirements and may result in termination of tenancy. When pursuing eviction due to material noncompliance with lease requirements, existing HUD procedures found in HUD Handbook 4350.3, REV-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs*, Chapter 8 must be followed.

## VIII. Further Information

If you have any questions regarding the requirements in this Notice as they pertain to the Office of Housing's programs, please contact your local HUD Field Office.

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Carol J. Galante  
Acting Assistant Secretary for Housing -  
Federal Housing Commissioner



## **Housing Authority of Piatt County**

### **Smoke-Free Lease Addendum**

**Effective: February 1, 2014**

Tenant and all members of Tenant's family or household are parties to a written lease with Landlord (the Lease). This Addendum states the following additional terms, conditions and rules which are hereby incorporated into the Lease. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease.

**1. Purpose of No-Smoking Policy.** The parties desire to mitigate (i) the irritation and known 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-smoke-free building;

#### **2. Definitions:**

**Smoking.** The term "smoking" means inhaling, exhaling, breathing, or carrying any lighted or heated cigar, cigarette, or other tobacco product or plant product in any manner or in any form.

**3. Smoke-Free Complex.** Tenant agrees and acknowledges that the premises to be occupied by Tenant and members of Tenant's household have been designated as a smoke-free living environment. Tenant and members of Tenant's household shall not smoke anywhere in the unit rented by Tenant, or in any Landlord's buildings, nor shall Tenant permit any guests or visitors under the control of Tenant to do so.

**4. Tenant to Promote No-Smoking Policy and to Alert Landlord of Violations.** Tenant shall inform Tenant's guests of the no-smoking policy. Further, Tenant shall promptly give Landlord a written statement of any incident where tobacco smoke is migrating into the Tenant's unit from sources outside of the Tenant's apartment unit.

**5. Landlord to Promote No-Smoking Policy.** Landlord shall post no-smoking signs at entrances and exits, common areas, hallways, and in conspicuous places adjoining the grounds of the apartment complex.

**6. Landlord Not a Guarantor of Smoke-Free Environment.** Tenant acknowledges that Landlord's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, do not make the Landlord or any of its managing agents the guarantor of Tenant's health or of the smoke-free condition of the Tenant's unit and the common areas. However, Landlord shall take reasonable steps to enforce the smoke-free terms of its leases and to make the complex smoke-free.

**7. Effect of Breach and Right to Terminate Lease.** A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease. A material breach of this Addendum shall be a material breach of the lease and grounds for immediate termination of the Lease by the Landlord.

environment and the efforts to designate the rental complex as smoke-free do not in any way change the standard of care that the Landlord or managing agent would have to a Tenant household 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. Landlord specifically disclaims any implied or express warranties that the building, common areas, or Tenant's premises will have any higher or improved air quality standards than any other rental property. Landlord cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Tenant acknowledges that Landlord's ability to police, monitor, or enforce the agreements of this Addendum is dependent in significant part on voluntary compliance by Tenant and Tenant's guests. Tenants with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Landlord does not assume any higher duty of care to enforce this Addendum than any other landlord obligation under the Lease.

**Tenant acknowledgment:**

I hereby acknowledge the above smoking policy as part of the lease agreement. I agree that I will not smoke in the units or common areas of any building. In addition, I will be responsible for enforcing this policy with all of my visitors, guests, and relatives who visit the premises. If I fail to abide by this policy, I agree that I'm subject to eviction within 30 days.

\_\_\_\_\_  
Head of Household

\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-Head of Household

\_\_\_\_\_  
Date

\_\_\_\_\_  
Public Housing Specialist

\_\_\_\_\_  
Date