

Marijuana (Cannabis) Policy for PHA's

[PHA]'S Policy For [List Property(les) Here]

Introduction.

Due to the Federal prohibition of the manufacture, distribution, and possession of marijuana even when state law authorizes its medical and/or personal use, along with the increased risk of fire, increased maintenance costs, noxious odor, and the known health effects of marijuana, the [PHA] hereby declares that the [PHA] continues to have zero tolerance for marijuana use, as defined below. [PHA]'s Marijuana Policy for [PROPERTY] (the "Policy") shall be strictly enforced for all residents.

Copies of this Policy shall be distributed to all current residents, new residents, applicants, and employees.

Background.

In Colorado, cannabis for medical use became legal on June 1, 2001 by a majority vote of the public. On November 6, 2012, Colorado citizens voted on Amendment 64, which, [when it takes effect], makes it legal under state law for people 21 years old or older to possess and cultivate certain amounts of marijuana for personal use. However, marijuana is regulated by both state **and** Federal law, and the Federal Controlled Substances Act, 21 U.S.C. § 801, *et seq.*, continues to prohibit the manufacture, distribution, and possession of marijuana even when state law authorizes its use. Under the Supremacy Clause of the U.S. Constitution, article VI, paragraph 21, federal law supersedes state law where there is a direct conflict of laws. Further, even if a person has a prescription for medical marijuana, the Federal Fair Housing Act states that a disability/handicap "does not include current, illegal use of or addiction to a controlled substance" as defined in the Controlled Substances Act.

The Quality Housing & Work Responsibility Act of 1998 (Public Housing Reform Act), 42 U.S.C. § 13661 requires that public housing ("PH") authorities administering HUD's rental assistance programs and housing choice voucher ("HCV") programs establish standards and lease provisions that prohibit admission into the PH and HCV programs based on the illegal use of controlled substances, which includes state legalized marijuana.

Definitions.

Marijuana: The term "marijuana" means any plant of the genus Cannabis which is a coarse bushy annual with palmate leaves and clusters of small green flowers. The plant yields tough fibers and narcotic drugs.

Resident: The term "resident" means any tenant, resident, household member, or family member who resides at any of the Properties.

Rules and Regulations.

All residents, employees, business visitors, invitees, and guests must abide by the following rules and regulations:

1. **Notice to Applicants.** All prospective residents and housing applicants will be informed that the Controlled Substances Act ("CSA") lists marijuana as a Schedule I drug, and that the possession of marijuana or any other Schedule I drug, even if in possession of a current medical marijuana registration, will not be allowed in any of the Properties.

2. **Admission Prohibited.** Admission into any of the Properties is prohibited to a household with member(s) who are illegally using marijuana, or any other controlled substance.
3. **Prohibition the Use of Marijuana.** [PHA] will adhere strictly to the HUD federal law with regard to all use of marijuana or any other substance listed as a Schedule I drug under the CSA. Residents may not possess or be engaged in the manufacturing, use of, or distribution of such drugs.
4. **Medical Marijuana is not a reasonable accommodation.** Federal nondiscrimination laws do not require public housing authorities or owners to allow marijuana use as a reasonable accommodation for disabilities.
5. **Compliance by Resident's Guests.** Resident is responsible for informing guests, invitees and business visitors of this Policy and for ensuring resident's guests, invitees and business visitors' compliance with this Policy.
6. **Lease Violation.** A breach of this Policy will be considered a lease violation which may result in termination of tenancy.
7. **Complaints.** If resident witnesses someone engaged in the use of marijuana in or on the [PROPERTY], resident is encouraged to report the violation to the Property Manager in writing as soon as possible.
8. **Investigations.** Property Managers receiving a complaint will take appropriate measures to investigate and will take subsequent enforcement action, if necessary, as soon as possible. Property Managers are not required to take steps in response to illegal drug use or possession unless Property Managers know of the illegal use or possession or have been given written notice of the illegal use or possession.
9. **Communication of Policy to Existing Residents.** This Policy shall be communicated by the Property Manager to all new and current residents and employees of [PHA] at least thirty (30) days prior to its effective date.
 - a. New residents shall be given two (2) copies of this Policy. After review, the resident must sign one copy and return the executed copy to the Property Manager prior to moving in. The Property Manager shall place the signed copy in the resident's file.
 - b. Upon adoption of the Policy, all current residents of the Properties covered by this Policy shall be given two copies of the Policy by the Property Manager. After review, resident must sign one copy and return the executed copy to the Property Manager within ten (10) days. The Property Manager shall place the signed copy in resident's file.
10. **Prohibition.** All [PHA] employees and all new residents of the [PROPERTY] and their guests are prohibited from the use of marijuana or any other Schedule I drug in or on the [PROPERTY], including individual apartment units.

Resident Certification.

I have read and understand this Policy, and I agree to abide by its provisions.

I understand that failure to comply with this Policy may constitute a lease violation and that a lease violation may be cause for termination of my tenancy.

I acknowledge that Property Manager's ability to police, monitor, or enforce the agreements of this Policy is dependent in significant part on voluntary compliance by the residents of the [PROPERTY].

Resident Signature: _____

Apartment Number: _____ Date: _____

Adopted: Date TBD

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