

Proposed Amendments to Chapter 17-2028,
Federally Assisted Public Housing Projects,
Hawaii Administrative Rules

Making the following amendments to the definitions in §17-2028-2 Definitions

"Common areas" means [areas which are available for use by more than one family including lobbies, corridors, hallways, stairways, parking lots, spots, ramps, washing machine or laundry room, rooftops, elevators, washrooms and lobby areas, driveways, storerooms, and shared ventilation ducts that service more than one dwelling unit.] roofs, halls, sidewalks, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the building or buildings, basements, yards, gardens, recreational facilities, parking areas, storage spaces, and other parts of the project or household normally in common use or other areas designated by the authority.

"Smoke" or "smoking" means inhaling [or], exhaling, burning, or carrying any lighted smoking or heated [the fumes of] tobacco product or [any other] plant [material, or burning or carrying any lighted smoking equipment for tobacco or any other plant material.] product intended for inhalation in any manner or in any form.

Making the following amendments to Subsection (b)(6) of §17-2028-59 Rental agreement termination

(b) The authority may terminate a rental agreement when the tenant, any member of the tenant's household, or any guest or other person under the tenant's control:

...

- (6) Violates the smoking prohibitions pursuant to section 17-2028-60 on more than [three] two occasions and receives written notice of said violations; provided that a guest who is visiting a resident, or any member of the tenant's household, who violates the smoking prohibition shall be deemed a violation by the tenant, and shall be counted toward the tenant's violations; provided further that failure to respond to management's request will result in a separate Notice of Violation being issued to the Tenant(s) for the refusal to respond to management's request; provided further that if tenant, any member of the tenant's

household, or any guest or other person under the tenant's control receives only one violation of section 17-2028-60 in one year, and participates in and completes a smoking cessation service program within the same year, the authority will clear the one violation and shall not deem the incident as a violation for the following year;

Making the following amendments to §17-2028-60 Smoking prohibited

§17-2028-60 Smoking prohibited. (a) Smoking is prohibited in all public housing projects, or portions of public housing projects, including inside dwelling units, unless specifically exempted by the authority in the ACOP, including:

- (1) Each individual housing unit;
- (2) In all common areas and community facilities in and around the authority's public housing projects. The authority may designate additional common areas in the ACOP; and

[(2)] (3) Within a presumptively reasonable minimum distance of twenty feet from each individual building of the housing project, and from any entrances, exits, and windows that open to common areas, community facilities, and dwelling units, and ventilation intakes that serve common areas, community facilities, and dwelling units, including enclosed or partially enclosed areas where smoking is prohibited.

(b) This prohibition applies to the use of marijuana, even if its use is pursuant to a lawful prescription under part IX of the Hawaii uniform controlled substances act as it existed on March 28, 2013 that was given subsequent to tenant placement in the dwelling unit.

[(c) Where smoking is not prohibited in a dwelling unit pursuant to subsection (a) and the household includes a person who smokes as disclosed pursuant to section 17-2028-22, the family shall pay a non-refundable monthly fee of \$5.00.

(d) The authority may discontinue the monthly fee required in subsection (c) when a family can demonstrate to the authority reasonable cause to believe that no member of the household continues to smoke. For the purposes of this subsection:

- (1) "Reasonable cause to believe" means by a preponderance of the evidence; and
- (2) In determining whether to discontinue charging the monthly fee, the authority may consider completion of a smoking cessation program.]

(c) One or more permissible designated smoking areas may be designated by the authority at least twenty feet away from any residential or other building, or any greater distance away as may ensure that the secondhand smoke does not infiltrate any dwelling unit, if such an area can be identified on the property, as authorized by Act 91, Session Laws of Hawaii 2014.

(d) Tenants, members of the tenant's household, and guests and visitors of the household shall promptly discontinue smoking upon management's request when observed smoking outside of a designated smoking area, if any.

Making the following amendments to §17-2028-63 Security deposits

§17-2028-63 Security deposits. (a) Prior to admission to a housing project, a family shall pay a security deposit in an amount not to exceed one month's rent. The security deposit may be applied to rent or used to repay charges owed to the authority upon the termination of the rental agreement.

[(b) Where smoking is not prohibited in a dwelling unit pursuant to section 17-2028-60(c) and the household includes a person who smokes as disclosed pursuant to section 17-2028-22, the family shall pay an initial refundable smoking deposit of \$75.00.

(c)] (b) The authority may charge a non-refundable community facilities maintenance fee of not less than one per cent of the community facilities expenses for rental and use for private functions. Resident associations that are duly recognized by the authority shall be exempt from the payment of this deposit.