

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

## CHAPTER 9: LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

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### **Introduction**

Public housing leases are the contractual basis of the legal relationship between the HACCP and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations. HUD regulations require the HACCP to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, the HACCP may conduct additional inspections in accordance with HACCP policy. This chapter is divided into two parts as follows:

### **Part I: Leasing**

This part describes pre-leasing activities and the HACCP's policies pertaining to lease execution, lease modification, and payments under the lease.

### **Part II: Inspections**

This part describes the HACCP's policies for inspecting dwelling units.

### Part I: Leasing

#### **9-I.A. Overview**

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the HACCP may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

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

HACCPs must adopt smoke-free policies, which must be implemented no later than July 30, 2018. The policy is attached as Exhibit 9-1.

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the HACCP's leasing policies.

### **Security Deposit**

The College Park Housing Authority will require a Security Deposit of the lesser of \$300 or the full monthly rental amount at initial occupancy. Current residents as of October 1, 2013 will not be required to submit a deposit as long as they maintain residence within the building.

Incoming residents shall provide the Authority with a security deposit as designated in the Lease Agreement.

Security deposits shall be returned to the tenant within 30 days after vacating the premises if all terms, covenants, and conditions of the lease have been fully performed; or a letter of Disposition explaining why the Housing Authority is withholding the security deposit will be sent.

The following conditions will apply in returning the security deposit:

- Rent and all charges must be paid in full;
- Dwelling unit and equipment must be clean; and
- There should be no damage to the unit beyond normal wear and tear

### **9-I.B. Lease Orientation**

#### **HACCP Policy**

After unit acceptance but prior to occupancy, a HACCP representative will conduct a lease orientation with the family. An adult family member is required to attend.

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

## **Orientation Agenda HACCP Policy**

When families attend the lease orientation, they will be provided with:

- A copy of the lease.
- A copy of the HACCP's grievance procedure.
- A copy of the house rules.
- A copy of the HACCP's schedule of maintenance charges.
- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19.
- A copy of the form HUD-5380, VAWA Notice of Occupancy Rights.
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.
- A copy of the HACCP's smoke free policy.
- A notice that includes the procedures for requesting relief and the HACCP's criteria for granting requests for relief for excess utility surcharges
- Topics to be discussed and explained to all families include:
  - Applicable deposits and all other charges.
  - Review and explanation of lease provisions.
  - Unit maintenance requests and work orders.
  - The HACCP's interim reporting requirements.
  - Review and explanation of occupancy forms.
  - Community service requirements.
  - Family choice of rent.

### **9-I.C. Execution of Lease**

The lease must be executed by the tenant and the HACCP, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

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

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one HACCP unit to another.

The lease must state the composition of the household as approved by the HACCP (family members and any HACCP-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

### **HACCP Policy**

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. If all adult members of the household are not available immediately after the unit walk through, an appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the HACCP will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to HACCP assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

### **9-I.D. Modifications to the Lease**

The lease may be modified at any time by written agreement of the tenant and the HACCP [24 CFR 966.4(a)(3)].

#### **Modifications to the Lease Form**

The HACCP may modify its lease from time to time. However, the HACCP must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes. The HACCP must also consider any comments before formally adopting a new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with

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

HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

### **HACCP Policy**

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

### **HACCP Policy**

When the HACCP proposes to modify or revise schedules of special charges or rules and regulations, the HACCP will post a copy of the notice in the central office and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

### **Other Modifications**

### **HACCP Policy**

The lease will be amended to reflect all changes in family composition.

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

If for any reason, any member of the household ceases to reside in the unit, the lease will be amended by adding a lease amendment attachment to the lease reflecting the change. The head of household and HACCP will be required to sign and date the amendment.

If a new household member is approved by the HACCP to reside in the unit, the lease will be amended by adding a lease amendment attachment to the lease reflecting the change and reflecting the new household member's date of birth. The head of household and HACCP will be required to sign and date the amendment. If the new member of the household is an adult, s/he will also be required to sign and date the amendment.

Policies governing when and how changes in family composition must be reported are contained in Chapter 10, Reexaminations.

### **9-I.E. Security Deposits [24 CFR 966.4(b)(5)]**

At the option of the HACCP, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the HACCP. The HACCP may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

#### **HACCP Policy**

Residents must pay a security deposit of \$300 to the HACCP at the time of the initial lease.

The security deposit must be paid in full prior to occupancy.

The HACCP will hold the security deposit for the period the family occupies the unit. The HACCP will not use the security deposit for rent or other charges while the resident is living in the unit.

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

Within 45 days of move-out, the HACCP will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The HACCP will provide the resident with a written list of any charges against the security deposit within 30 calendar days of the move-out inspection.

If the resident disagrees with the amount charged the resident will have ten (10) business days from the date “Final Rental Account Status” is sent to resident, in which to request a meeting with the HACCP to discuss the charges. The Grievance Procedure is not applicable to former residents/participants of the Public Housing Program. If the resident transfers to another unit, the HACCP will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the “old” unit.

### **Rent Policy**

#### **Minimum Rental Amount**

The PHA has established a minimum Total Tenant payment of \$50 per month.

#### **Rent Collection**

- A. Rent is due on the first (1<sup>st</sup>) of each month and is considered late if not paid by the eighth (8<sup>th</sup>) working day of the month. All payments received after 4:00 pm may be dated the next working day, but for delinquency purposes, they will have the actual payment date noted on the receipt.
- B. A late charge of \$10.00 will be added to the monthly rental payment for any rent paid after the eighth (8<sup>th</sup>) working day of the month.
- C. A 14-Day Notice of Termination will be served on the tenant on the ninth (9<sup>th</sup>) working day of the month if rent is not paid. If the total rental payment due is not paid within fourteen (14) days, the PHA will issue an unlawful detainer and file in court for all monies due and for possession of the unit. Rent will be accepted up until the court date. Should the resident wish to settle the suit out of court, resident

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

payment shall include all past due rent, late fees, court filing fees, and other reasonable costs associated with the filing of the eviction.

- D. If a family is served three (3) unlawful detainers within a twelve (12) month period, their lease shall be terminated for chronic rent delinquency.

### **Payments after the Delinquency Date**

The family may enter into a written agreement with the PHA or court to pay back all outstanding indebtedness, including unpaid maintenance charges and retro-rent, plus incurred charges. Repayment agreements will not be entered into for delinquent rent. The option to enter into an agreement shall be solely at the discretion of the PHA. Any such agreement must be in writing and signed by HACCP and the resident. The agreement must provide for a quick payout of debt, not to exceed three (3) months for the total payment unless authorized by HACCP. Should the family fail to make payments in accordance with the terms of the agreement to repay, the PHA shall serve a notice to vacate to the family. Should the PHA be required to enforce the terms of the lease agreement through legal action, all related court costs, attorney fees, plus any outstanding indebtedness, will be included in the judgment.

### **Retroactive Rent Charges**

Retroactive Rent Charges will be due and payable within seven (7) days of the written notice unless arrangements are made prior to this day to make installment payments. Normally retroactive rent installment payments must be computed not to exceed a three (3) month payoff. If the amounts are large and the tenant will not be able to pay off the retro rent charge within three (3) months, a repayment schedule may be established allowing a longer period.

### **9-I.F. Payments under the Lease**

#### **Rent Payments [24 CFR 966.4(b)(1)]**

Families must pay the amount of the monthly tenant rent determined by the HACCP in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements. The lease must specify the initial amount of the tenant rent at the beginning of the



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

initial lease term, and the HACCP must give written notice stating any change in the amount of tenant rent and when the change is effective.

### **HACCP Policy**

At initial lease-up, the rent must be paid prior to occupancy.

The tenant rent is due and payable at a HACCP-designated location on the first day of every month. If the first day falls on a weekend or holiday, the rent is due and payable on the first business day thereafter. Only payment in the form of check or money order or ACH Withdrawal will be accepted.

Use of “overnight boxes” at HACCP locations for rent payment is not guaranteed as a method of timely payment or acceptance for the purpose of rent payment.

If a family’s tenant rent changes, the HACCP will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

### **Late Fees and Nonpayment**

At the option of the HACCP, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until eight (8) days after the first (1<sup>st</sup>) day of the month. The HACCP will provide written notice of all late charges, the written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the HACCP grievance procedures. The HACCP must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

### **HACCP Policy**

The rent is due and payable by the close of business on the first day of each month. If the family fails to pay their rent by close of business on the eighth day

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

of the month, and the HACCP has not agreed to accept payment at a later date a 14-day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the eighth day of the month, a late fee of \$10.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after the first (1<sup>st</sup>) day of the month. If the family requests a grievance hearing within the required timeframe, the HACCP may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

### **Excess Utility Charges**

If the HACCP charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the HACCP gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)]. The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the HACCP grievance procedures. The HACCP must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

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

### **HACCP Policy**

When applicable, families will be charged for excess utility usage according to the HACCP's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the HACCP may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

The HACCP may grant requests for relief from surcharges from excess utility consumption of HACCP-furnished utilities as a reasonable accommodation where the HACCP deems an exception is appropriate to meet the needs of elderly, ill, or disabled residents. In determining whether to grant this request, the HACCP will consider special factors affecting utility usage that are not within the control of the resident, such as the need for medical equipment. Residents may request relief in accordance with Section 3-II.C. of this ACOP. The HACCP will process such requests in accordance with Section 3-II.E. of this ACOP.

Notice of the availability of procedures for requesting relief (including the HACCP representative with whom initial contact may be made by the resident) and the HACCP's criteria for granting requests, will be included in each notice to residents of changes in utility allowances or surcharges as well as to new residents as part of the lease orientation.

### **Maintenance and Damage Charges**

If the HACCP charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous

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

manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the HACCP gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the HACCP grievance procedures. The HACCP must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

### **HACCP Policy**

When applicable, families will be charged for maintenance and/or damages according to the HACCP's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable). Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the HACCP may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

## **Part II: Inspections**

### **9-II.A. Overview**

HUD regulations require the HACCP to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the HACCP may require additional inspections, in accordance with HACCP Policy. This part

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

contains the HACCP's policies governing inspections, notification of unit entry, and inspection results.

### **9-II.B. Types of Inspections**

#### **Move-In Inspections [24 CFR 966.4(i)]**

The lease must require the HACCP and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the HACCP and the tenant, must be provided to the tenant and retained in the resident file.

#### **HACCP Policy**

Any adult household member may attend the initial inspection and sign the inspection form for the head of household.

#### **Move-Out Inspections [24 CFR 966.4(i)]**

The HACCP must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the HACCP. The HACCP must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear. The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear. HACCP Policy When applicable, the HACCP will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, no later than 30 days after the tenant vacates the unit.

#### **Annual Inspections [24 CFR 5.705]**

Section 6(f)(3) of the United States Housing Act of 1937 requires that HACCPs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. The HACCP shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to conduct annual project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.

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

### **HACCP Policy**

The HACCP will inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).

### **Quality Control Inspections**

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

### **Special Inspections**

#### **HACCP Policy**

HACCP staff may conduct a special inspection for any of the following reasons:

- Housekeeping unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists.

### **Other Inspections**

#### **HACCP Policy**

Building exteriors, grounds, common areas and systems will be inspected routinely.

### **9-II.C. Notice and Scheduling of Inspections**

#### **Notice of Entry**

##### ***Non-emergency Entries [24 CFR 966.4(j)(1)]***

The HACCP may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the HACCP entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

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

### **HACCP Policy**

The HACCP will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least one week written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the HACCP to enter the unit.

### **Emergency Entries [24 CFR 966.4(j)(2)]**

The HACCP may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the HACCP must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

### **Scheduling of Inspections**

#### **HACCP Policy**

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the HACCP at least 24 hours prior to the scheduled inspection. The HACCP will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The HACCP may request verification of such cause.

### **Attendance at Inspections**

Residents are required to be present for move-in inspections [24 CFR 966.4(i)].

There is no such requirement for other types of inspections.

### **HACCP Policy**

Unless at least two inspectors are present, the HACCP will not inspect a unit when the only members at the unit are minor children. Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

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

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

### **9-II.D. Inspection Results**

The HACCP is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

### **Emergency Repairs [24 CFR 966.4(h)]**

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the HACCP of the damage, and the HACCP must make repairs within a reasonable time frame. If the damage was caused by a household member or guest, the HACCP must charge the family for the reasonable cost of repairs. The HACCP may also take lease enforcement action against the family. If the HACCP cannot make repairs quickly, the HACCP must offer the family standard alternative accommodations. If the HACCP can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

### **HACCP Policy**

When conditions in the unit are hazardous to life, health, or safety, the HACCP will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leak
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury



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

- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

### **Non-emergency Repairs**

#### **HACCP Policy**

The HACCP will correct non-life-threatening health and safety defects within 30 calendar days of the inspection date. If the HACCP is unable to make repairs within that period due to circumstances beyond the HACCP's control (e.g. required parts or services are not available, weather conditions, etc.) the HACCP will notify the family of an estimated date of completion.

The family must allow the HACCP access to the unit to make repairs.

### **Resident-Caused Damages**

#### **HACCP Policy**

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 9-I.F., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

### **Housekeeping**

#### **HACCP Policy**

Residents with housekeeping or living habits that result in unsanitary living conditions, potentially pose a health risk to themselves, their neighbors, or HACCP staff. In these instances, the HACCP will provide a notice of lease violation and may require, through the use of a lease addendum, weekly sanitation inspections until the tenant has become compliant. If the unsanitary conditions are not remedied within four (4) weeks, the tenant will be considered non-compliant, in violation of the lease, and may receive a Notice of Lease Termination in accordance with Chapter 13.

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

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the HACCP will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13. Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

### **Exhibit 9-1: Smoke-Free Policy**

In accordance with HUD regulations, (24 CFR 965 & 24 CFR 966.4) the Housing Authority has adopted these smoke-free policies. The policies are effective as of July 30, 2018.

#### **HACCP Smoke-Free Policy**

The term "smoking" means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, vape pen, or other prohibited tobacco product in any manner or any form.

#### **Prohibited Tobacco Products**

Prohibited tobacco products include tobacco, cigars, cigarettes, pipes, water pipes, hookahs, all types of E-cigarettes, vaping devices, and ENDS (Electronic Nicotine Delivery Systems).

#### **Locations**

Smoking is prohibited in all apartments, residential units, and all interior areas, including but not limited to hallways, stairwells, balconies, elevators, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures. Smoking is also prohibited in outdoor areas within 25 feet from public housing and administrative office buildings.

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

### **Applicability**

This policy applies to all residents, household members, guests, employees and service persons. Residents are responsible for ensuring that household members and guests comply with this rule.

### **Designated Smoking Areas**

The HACCP does not provide designated smoking areas on the HACCP's property.

### **Effective Date**

The effective date of this Smoke-Free policy is July 30, 2018.

### **Lease**

Residents must execute a lease that includes HUD's "Smoke-Free" requirements in accordance with 24 CFR 965 & 966 as part of the annual lease renewal process. Regardless of the lease renewal date, all residents must be in compliance with the Smoke-Free policy no later than July 30, 2018.

### **Reasonable Accommodation**

The act of smoking itself is not a disability under the ADA. Persons who smoke or use tobacco are not a protected class under the Fair Housing Act and do not have special legal status. Reasonable accommodations that allow residents to smoke in their units will not be made.

### **Violations of Smoke-Free Policy**

Violation of the Smoke-Free policy after the Effective Date constitutes a violation of the terms of the Public Housing Dwelling Lease. Consequences of lease violations include termination of tenancy.

### **Enforcement**

The HACCP must enforce smoke-free policies when a resident violates this policy. When enforcing the lease, the HACCP will provide due process and allow residents to exercise their right to an informal settlement and formal hearing. The HACCP will not evict a resident for a single incident of smoking in violation of this policy. As such, the HACCP will implement a graduated enforcement framework that includes escalating warnings. Prior to pursuing eviction for violation of Smoke Free policies, the HACCP will take specific, progressive monitoring and

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

enforcement actions, while at the same time educating tenants and providing smoking cessation information.

The lease will identify the actions that constitute a policy violation, quantify the number of documented, verified violations that warrant enforcement action, state any disciplinary actions that will be taken for persistent non-responsiveness or repeated noncompliance, and state how many instances of noncompliance will constitute a violation.

Tenancy termination and eviction will be pursued only as a last resort. The HACCP may terminate tenancy at any time for other violations of the lease and failure to fulfill household obligations if resident behavior disturbs other residents' peaceful enjoyment and is not conducive to maintaining the property in a decent, safe, and sanitary condition.

### **Enforcement Plan**

**1st Violation** - Verbal warning from staff to resident. Warning is noted in tenant file. Cessation materials included.

**2nd Violation** - Notice of Lease Violation letter sent to tenant specifying smoking as a lease violation, including date of first, verbal warning. Cessation materials included.

**3rd Violation** - Notice of Lease Violation sent to tenant with a request for tenant to meet with staff to discuss HACCP Smoke Free Policy. Cessation materials included.

**4th Violation** - Notice of Lease Termination issued:

- If tenant agrees in writing not to violate Smoke-Free policy again, HACCP may allow cure.
- If tenant does not agree in writing to cease violating Smoke-Free policy then Lease Termination will be enforced. 5th Violation – Notice of Lease Termination issued (Final):
- Tenant is in violation of prior written agreement will not be permitted to cure.

**5th Violation** - Notice of Lease Termination issued (Final):

- Tenant is in violation of prior written agreement will not be permitted to cure.

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

Grievance Procedure Tenant(s) found to be in violation of Smoke-Free policy may grieve at any stage of violation in accordance with the Grievance Procedure (ACOP Chapter 14 or Resident Handbook), except in cases where the grievance would be excluded by the Dwelling Lease or PHA Policy.