

GUAM HOUSING AND URBAN RENEWAL AUTHORITY  
*Aturidat Ginima' Yan Rinueban Siudat Guahan*  
Sinajana, Guam

MARIJUANA (CANNABIS) POLICY FOR PUBLIC HOUSING

Adopted by GHURA Board of Commissioners

Resolution No.: \_\_\_\_\_

Date of Adoption: \_\_\_\_\_

Effective Date of Implementation: \_\_\_\_\_

# **MARIJUANA (CANNABIS) POLICY FOR PUBLIC HOUSING**

## **INTRODUCTION**

Due to the Federal prohibition of the manufacture, distribution, and possession of marijuana even when Guam law authorizes its medical and/or recreational 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 Authority continues to have zero tolerance for marijuana use, as defined below. GHURA's Smoke-Free Public Housing Policy has been updated to include Marijuana (Cannabis). The Guam Housing and Urban Renewal Authority's (GHURA) Marijuana (Cannabis) Policy for Public Housing (the "Policy") applies to all residents, resident's families, resident's guests, visitors, contractors, service personnel, and employees. This Policy shall be strictly enforced.

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

## **BACKGROUND**

In Guam, the legalization of recreational marijuana was signed into law on April 4, 2019 by Governor Lourdes A. Leon Guerrero. Public Law 35-5 makes it legal under Guam for people twenty-one (21) years of age or older to possess and cultivate certain amounts of marijuana for recreational use.

However, marijuana is regulated by both Guam 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 Guam law authorizes its use. Under the Supremacy Clause of the U.S. Constitution, Article VI, Paragraph 21, federal law supersedes Guam 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 (CSA).

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

## **PROHIBITION ON THE USE OF MARIJUANA**

The 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.

## DEFINITIONS

**Cultivation:** The term cultivation means the growth or act of growing marijuana (recreational and/or medical) and/or cannabis. Cultivation also covers all stages of growth beginning with the Germination process which is where the seeds sprout and the root emerges until the plants are ready to be harvested.

**Development/Property:** All Public Housing developments and properties are included in this policy and all related administrative offices and maintenance facilities.

**Drug-related criminal activity** is the illegal manufacture, sale, distribution, use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug. *(NOTE: Per memo from HUD General Council Helen R. Kanovsky dated January 20, 2011 - Subject: Medical Use of Marijuana and Reasonable Accommodation in Federal Public & Assisted Housing "federal and state non-discrimination laws do not require PHA's and owners of other federally assisted housing to accommodate requests by current or prospective residents with disabilities to use medical marijuana")*

**Marijuana:** The term "marijuana" is the leaves of a cannabis plant that are used as a drug that can be smoked or consumed in order to create a feeling of being euphoric or "high". An example of marijuana is the leaves of a plant that people roll up into the form of a cigarette in order to smoke and get high. It can be also called weed, herb, pot, grass, bud, ganja, Mary Jane, to name a few.

**Public Housing:** Low-income housing, such as, community facilities, public housing offices, and laundry rooms assisted under the U.S. Housing Act of 1937 (the 1937 Act), other than assistance under section 8 of the 1937 Act.

**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, resident's families, resident's guests, visitors, contractors, service personnel, and employees must abide by the following rules and regulations:

1. **Notice to Applicants.** All prospective residents and housing applicants will be informed that the 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 GHURA's Properties.
2. **Admission Prohibited.** Admission into any of GHURA's Properties is prohibited to a household with member(s) who are illegally using marijuana, or any other controlled substance.
3. **No-Smoking or Cultivating Marijuana.** All Asset Management Properties (AMP) have been designated as a no-smoking or cultivating living environment. There shall be no smoking or cultivating anywhere in the unit or in any of the common areas or adjoining grounds.

4. **Prohibition the Use of Marijuana.** The 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.
5. **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.
6. **Compliance by Resident's Guests.** Resident is responsible for informing families, guests, visitors and service personnel of this Policy and for ensuring resident's families, guests, visitors and service personnel comply with this Policy.
7. **Lease Violation.** A breach of this Policy will be considered a major lease violation which may result in termination of tenancy.
8. **Complaints.** If resident witnesses someone engaged in the use of marijuana in or on GHURA's Properties, resident is encouraged to report the violation to the Property Site Manager in writing as soon as possible.
9. **Investigations.** Property Site Managers receiving a complaint will take appropriate measures to investigate and will take subsequent enforcement action, if necessary, as soon as possible. Property Site Managers are not required to take steps in response to illegal drug use or possession unless Property Site Managers know of the illegal use or possession or have been given written notice of the illegal use or possession.
10. **Communication of Policy to Existing Residents.** This Policy shall be communicated by the Property Site Manager to all new and current residents and employees of GHURA 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 Site Manager prior to moving in. The Property Site Manager shall place the signed copy in the resident's file.
  - b. Upon adoption of the Policy, all current residents of the GHURA Properties covered by this Policy shall be given two copies of the Policy by the Property Site Manager. After review, resident must sign one copy and return the executed copy to the Property Site Manager within ten (10) days. The Property Site Manager shall place the signed copy in resident's file.
11. **Prohibition.** All residents, resident's families, household members, resident's guests, visitors, contractors, service personnel and GHURA employee are prohibited from the use, possession, and cultivation of marijuana or any other Schedule I drug on GHURA property, including the individual units of the residents.

**This Policy is in compliance with 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act (ADA), Fair Housing Act, the Department of Housing and Urban Development (HUD) registers and notices, Title 24 of the Code of Federal Regulations, the Admissions and Continued Occupancy Policy (ACOP), and State and local laws.**

**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 the Property Site 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 GHURA-owned properties.

Resident Name (printed): \_\_\_\_\_

Resident Signature: \_\_\_\_\_

Unit Number/Street: \_\_\_\_\_ Date: \_\_\_\_\_

Adopted: \_\_\_\_\_

Effective Date: \_\_\_\_\_