

[SAMPLE] SMOKEFREE LEASE ADDENDUM and POLICY

[Version A: Minimum HUD Rule Requirements]

1. Purpose of Policy.

This smokefree lease addendum/policy is intended to benefit the **[Insert Name]** Housing Authority and all of its public housing residents, visitors, and staff by mitigating (i) the irritation and known adverse health effects of secondhand tobacco 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-smokefree building.

The Department of Housing and Urban Development (HUD) adopted Rule RIN 2577-AC97 effective February 3, 2017, requiring this housing authority to have such a policy fully implemented within 180 days of that date or approximately August 1, 2018. The housing authority may also adopt a more stringent policy on smoking.

2. Definitions.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs.

3. Smoking Prohibition.

Residents, guests, visitors, staff, and management agree and acknowledge that the premises to be occupied by residents and members of residents’ households have been designated as a smokefree living environment, starting no later than **[effective date and time]**. Residents and members of residents’ households, in addition to all guests, visitors, staff, and management, shall not smoke anywhere in the units rented by residents, in the building[s] where residents’ dwelling[s] is/are located, in other public housing authority buildings, or in all areas within 25 feet of buildings, nor shall residents, staff, or management permit any guests or visitors under the control of residents, staff, or management to do so.

4. Residents to Promote No Smoking Policy and to Alert Landlord of Violations

Residents shall inform residents' guests and visitors of the smokefree policy. Further, residents shall promptly give the management a written statement of any incident where secondhand smoke is migrating into residential units from sources outside of the residential unit.

5. Public Housing Authority to Promote No Smoking Policy

The Housing Authority management shall post signage at building entrances and exits, and outside as needed, stating that smoking is prohibited indoors and outside within 25 feet of each building.

6. Public Housing Authority Not a Guarantor of Smokefree Environment

Residents acknowledge that the housing authority's adoption of a smokefree living environment, does not make the public housing authority or any of its managing agents the guarantor of residents' health or of the smokefree condition of residential units and other areas covered by this policy. However, the housing authority management shall take reasonable steps to enforce the smokefree terms of its leases. The management is not required to take steps in response to smoking unless management knows of said smoking or has been given written notice of said smoking.

7. Other Residents are Third-Party Beneficiaries of Resident's Agreement

Residents agree that the other residents at the complex are the third-party beneficiaries of each resident's smokefree addendum agreement with the housing authority. A resident may sue another resident for an injunction to prohibit smoking or for damages, but does not have the right to evict another resident. Any suit between residents herein shall not create a presumption that the housing authority breached a lease addendum.

8. Effect of Breach and Right to Terminate Lease

A breach of a lease addendum shall give each party all the rights contained within the aforementioned addendum, as well as the rights provided for in their lease. A material breach of a lease addendum by the resident shall be a material breach of their lease and grounds for termination of their lease by the housing authority. The public housing authority acknowledges that in adopting this smokefree policy, the failure to respond by the housing authority to a complaint filed by a resident shall be treated as equivalent to failure to respond to a request for maintenance. Oklahoma law governing repair and deduct, the implied warranty of habitability, and the covenant of quiet enjoyment shall be understood to include the right to be smokefree

contingent upon cooperation of both residents and the housing authority. These provisions shall also be construed to result in a constructive eviction if the housing authority fails to timely respond to residents' complaints regarding secondhand smoke.

Progressive enforcement actions for violations of this policy shall include the following:

First violation: Written warning, accompanied by smoking cessation resource information.

Second violation: Notice to vacate with option to remedy, accompanied by smoking cessation resource information.

Third violation: Notice to vacate without the option to remedy.

9. Disclaimer by Public Housing Authority

Residents acknowledge that the Public Housing Authority's adoption of a smokefree living policy, does not in any way change the standard of care that the housing authority would have to a resident household to render buildings and premises designated as smokefree any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Property The housing authority management specifically disclaims any implied or express warranties that the building, common areas, or rental premises will have any higher or improved air quality standards than any other rental property. The housing authority cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Residents acknowledge that the housing authority's ability to police, monitor, or enforce the agreements of a lease addendum is dependent in significant part on voluntary compliance by residents and residents' guests and visitors. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that the housing authority does not assume any higher duty of care to enforce this lease addendum than any other housing authority obligation under their lease.

10. Effect on Current and Future Residents

All residents will be required to sign this lease addendum and to comply with this policy no later than *[effective date and time; same as in #3 on page 1 of this sample]*.

Future leases shall include the provisions of this smokefree policy or contain this addendum.

Approved by: _____

Name of Public Housing Authority Board

Signed by: _____
Signature of authorized PHA official

Date Adopted: _____

Resident 1

Resident 2

Resident 3

Date

Date

Date

[end of Sample A]