

**RESOLUTION NO. HA-66**

**A RESOLUTION OF THE PALM DESERT HOUSING AUTHORITY AMENDING THE ADMINISTRATIVE PLAN TO INCORPORATE EXHIBIT G – SMOKE FREE POLICY FOR THE PALM DESERT HOUSING AUTHORITY PERTAINING TO THE MANAGEMENT AND OPERATION OF THE AFFORDABLE HOUSING RENTAL UNITS**

NOW, THEREFORE, THE PALM DESERT HOUSING AUTHORITY HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The Palm Desert Housing Authority (the "Authority"), in cooperation with the Palm Desert Redevelopment Agency (the "Agency"), has established an affordable housing rental program (the "Program") for very low, low and moderate income residential homeowners in the City.

Section 2. The Authority has approved an Administrative Plan (the "Plan") establishing the policies and procedures under which the Authority currently operates, for the administration, management and operations of the Program as attached hereto and incorporated herein by this reference.

Section 3. The Administrator of the Plan is the Authority regardless of funding source or ownership of the properties.

Section 4. The Authority wishes to amend the Plan to incorporate Exhibit G, Smoke Free Policy attached hereto and incorporated herein.

Section 5. The Authority hereby approves and accepts the amended Plan as well as the authority provided herein for the purpose of the management and operation of the properties that may be owned, operated, restricted or otherwise controlled by the Authority from time to time.

Section 6. The Executive Director of the Authority shall have the authority to implement and administer the Plan in accordance with the terms therein as well as the Authority Bylaws so long as such action is not inconsistent with the intent hereof.

PASSED, APPROVED AND ADOPTED by the Palm Desert Housing Authority, this 28<sup>th</sup> day of \* 2014 by the following vote, to wit:

\* August

AYES: BENSON, HARNIK, SPIEGEL, WEBER, and TANNER

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

  
VAN G. TANNER, CHAIRMAN

ATTEST:

  
Rachelle D. Klassen, Secretary  
Palm Desert Housing Authority

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**EXHIBIT G  
SMOKE-FREE POLICY**

**PURPOSE**

**Section 1. Findings**

Section 1.1 On December 10, 2009 the City of Palm Desert (the "City") approved Ordinance No. 1200 regulating smoking throughout the City to promote public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-smokers, especially children; and by protecting the public from exposure to secondhand smoke where they live, work, and play.

Section 1.2 In accordance with the purposes of Ordinance No. 1200, the Palm Desert Housing Authority (the "Authority") has declared many of its apartment buildings to be smoke free buildings to insure the quality of air and the safety of its residents. Smoking is not permitted in any area of the buildings including apartments designated as smoke free except as noted in this policy. Smoking is only permitted in specifically designated areas within a reasonable distance outside of the buildings.

Section 1.3 Ordinance No. 1200 and this policy recognize there is no constitutional right to smoke.

Section 1.4 The efforts to designate properties or portions thereof as smoke-free do not make the Authority or any of its managing agents the guarantor of health of any person or the smoke-free condition of any property. The Authority will take reasonable steps to enforce the Smoke-Free Policy but shall not be required to take any action unless the Authority or any of its managing agents has actual knowledge of the smoking and the identity of the responsible resident.

**Section 2. Definitions**

- A. "City" means the City of Palm Desert, and its related entities including the Palm Desert Housing Authority (Authority).
- B. "Common area" means every unenclosed area of a multi-unit residence that residents of more than one unit of that multi-unit residence are entitled to enter or use, including, for example, paths, courtyards, playgrounds, swimming pools, parking lots, and picnic areas.
- C. "Complex" see definition for multi-unit residence.
- D. "Multi-unit residence" means a residential property containing two (2) or more units. "Multi-unit residence" includes complexes comprised of more two (2) or more buildings.
- E. "Reasonable distance" means a distance of twenty (20) feet or, with respect to a designated smoking area or such larger area as the City Manager/Executive

Director reasonably determines in writing to be necessary in a given circumstance to ensure that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area.

- F. “Resident” means anyone included on a current lease agreement for any unit in a multi-unit residence owned or operated by the Authority.
- G. “Secondhand smoke” means smoke or vapor from tobacco, nicotine, any weed or plant created by the burning, carrying, or operating of any lighted pipe, hookah, cigar, cigarette, other tobacco product, electronic cigarette or similar kind of smoking equipment, and the smoke or vapor exhaled by an individual who engages in smoking.
- H. “Smoke-free building” means that smoking is prohibited by residents and their guests in common areas, included but not limited to community rooms, community bathrooms, lobbies, reception areas, hallways, laundry rooms, stairways, offices and elevators, within all units, and within a small perimeter outside of the building including entry ways, porches, balconies, and patios (to be established in accordance with this policy).
- I. “Smoke-free unit” means a dwelling or unit where smoking by residents and their guests is prohibited in accordance with this policy.
- J. “Smoking” or to “Smoke” means holding, possessing, or operating any lighted pipe, hookah, cigar, cigarette, other tobacco product, electronic cigarette or similar kind of smoking equipment that is emitting smoke or vapor from tobacco, weed, plant, or nicotine product.

### **Section 3. Smoking Regulation**

Section 3.1 Smoking is prohibited anywhere in any unit or part of a multi-unit residence that has been designated as smoke-free.

Section 3.2 Smoking is prohibited in all common areas of multi-unit residences, except as noted in the specific multi-unit residence’s rules regarding smoking in common areas or in accordance with Ordinance No. 1200.

Section 3.3 Smoking is prohibited within a reasonable distance of any entrance, window, or opening of any building, or unit, or within any common area or location designated as non-smoking pursuant to this policy.

Section 3.4 “No Smoking” signs will be posted outside of the buildings designated as smoke-free.

Section 3.5 All residents of multi-unit residences where some or all of the property is designated as smoke-free are required to sign an acknowledgement that they have received and read a copy of this policy and that they will observe all rules related to smoking.

Section 3.6 Residents are responsible for the actions of their household, their guests, and visitors.

Section 3.7 Failure to adhere to any of the conditions of this policy will constitute both a material non-compliance with the rental/lease agreement and a serious violation of the rental agreement.

Section 3.8 Residents will be responsible for all costs to remove smoke, odor, or residue upon any violation of this policy.

Section 3.9 Any resident who smells smoke in a smoke-free area or building or otherwise observes a violation of a smoke-free designation should report this to the Authority as soon as possible. No person shall harass or attempt to intimidate any person seeking to obtain compliance with smoke-free designations.

Section 3.10 Smoking is prohibited even where otherwise allowed at such time as any employee or representative of the Authority or any of its managing agents enters and remains in a unit. Failure to comply with this requirement may result in a delay of services or maintenance in the apartment.

Section 3.11 This policy does not require residents to quit smoking in order to live in units owned or operated by the Authority. This policy only prohibits smoking within the properties per the policy guidelines. Residents who wish to smoke may do so in other locations, as otherwise allowed. Authority staff will provide information regarding smoking cessation resources to residents who wish to quit smoking.

#### **Section 4. Exception**

Section 4.1 Pursuant to Ordinance No. 1200, the only exception to the Smoke-free Policy includes up to twenty-five percent of the contiguous deck area around swimming pools in multi-family residential properties owned by the City/Authority. Such areas will be identified and posted by the Authority or any of its managing agents. Such exception will not apply to a 100% smoke-free complex or property.

#### **Section 5. Implementation Timeline and Procedure**

Section 5.1 Multi-unit residences owned or operated by the Authority will include smoke-free units as follows:

- A. All newly constructed or renovated multi-unit residences owned by the Authority or the City will be 100% smoke free from the day the property is available for occupancy.
- B. All multi-unit residences owned or operated by the Authority or the City having 30 or fewer units will be transitioned to a 100% smoke-free complex. This will occur through attrition in the following manner. Smoking shall be allowed in units currently occupied by residents whose initial lease term began prior to the effective date of this policy until the earlier occurrence of the following: (1) the

unit is vacated by the current residents; or (2) the current residents voluntarily designate their unit to be smoke-free.

- C. All multi-unit residences owned or operated by the Authority or the City having between 31 and 150 units will be transitioned over a five year period to ensure that at least 80% of all units are designated as smoke-free. This will be done through attrition in the following manner. Smoking shall be allowed in units currently occupied by residents whose initial lease term began prior to the effective date of this policy until the earliest occurrence of the following: (1) the unit is vacated by the current residents, (2) the current residents voluntarily designate the unit to be smoke-free; or (3) the fifth anniversary of the effective date of this policy. After the fifth anniversary of the effective date of this policy, residents may request to transfer to one of the 30% of units set aside for smoking subject to availability.
- D. All multi-unit residences owned or operated by the Authority or the City having more than 150 units will be transitioned over a five year period to ensure that at least 70% of all units are designated as smoke-free. Smoking shall be allowed in units currently occupied by residents whose initial lease term began prior to the effective date of this policy until the earliest occurrence of the following: (1) the unit is vacated by the current residents, (2) the current residents voluntarily designate the unit to be smoke-free; or (3) the fifth anniversary of the effective date of this policy. After the fifth anniversary of the effective date of this policy, residents may request to transfer to one of the 30% of units set aside for smoking subject to availability.
- E. For the purpose of transition, all vacant units during the transition period are to be considered as smoke-free units, except where specific buildings have already been designated as smoking and no existing residents desire to transfer to such units. All new residents will be required to sign a smoke-free addendum indicating that they will not smoke within their unit and will observe all rules related to smoking.

The following table summarizes the implementation timeline and procedure.

	<b>All Newly Constructed Complexes</b>	<b>30 or Fewer Unit Complexes</b>	<b>31 to 150 Unit Complexes</b>	<b>151 or More Unit Complexes</b>
<b>Smoke-Free Requirement</b>	100%	100%	80%*	70%*
<b>Implementation Period</b>	Immediately	Through Attrition	Through Attrition	Through Attrition
<b>Designation to Smoke-Free Unit</b>	Immediately	Upon Vacancy of Unit	May be transferred to smoke-free unit**	May be transferred to smoke-free unit**

\*Established minimum requirement.

\*\*Transfer will occur upon volunteer transfer or upon 5th anniversary of policy implementation, whichever is sooner.

Section 5.2 Where possible, entire buildings will be designated either “smoke-free” or “smoking” consistent with the other provisions of this policy.



**RESIDENT ACKNOWLEDGEMENT**

As head of household, I hereby acknowledge that I have received, read, and that I understand the above smoking policy and I agree to abide by the provisions. I understand acknowledge that failure to comply with any part is cause for termination of my lease.

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

Resident (Printed) Name: \_\_\_\_\_

Apartment Number: \_\_\_\_\_ Date: \_\_\_\_\_

**PALM DESERT HOUSING AUTHORITY**  
Proposed Smoke-Free Unit Breakdown

PROPERTIES	TOTAL UNITS	NO. OF SMOKE-FREE UNITS	MINIMUM % OF SMOKE-FREE UNITS
<b>Multi-Family Complexes</b>			
California Villas	141	113	80%
Desert Pointe	64	51	80%
Laguna Palms	48	38	80%
Neighbors	24	24	100%
One Quail Place	384	269	70%
Palm Village	36	29	80%
Taos Palms	16	16	100%
<b>Senior Complexes</b>			
Candlewood Apartments	30	30	100%
Catalina Gardens	72	58	80%
La Rocca Villas	27	27	100%
Las Serenas	150	120	80%
Pueblos	15	15	100%
Sagecrest Sr.	14	14	100%
<b>Cumulative Total for All Properties:</b>	<b>1021</b>	<b>804</b>	<b>88%</b>