



# **Housing Authority of the City of El Paso**

**HUD Model Lease**

**Housing and Community Rules**

**Tenant Selection Plan**

# PURPOSE OF DOCUMENTS

- **HUD Model Lease-** Identifies the program requirements that owners and tenants must adhere to while participating in the Project Based Rental Assistance (PBRA) and Low Income Housing Tax Credit (LIHTC) programs .
- **The Housing and Community Rules-** Serve as an attachment to the HUD Model Lease. They identify the allowable and prohibited activities in the housing units and common areas. The Housing and Community Rules benefit the safety and cleanliness of the properties by making them more appealing and livable for the tenants.
- **The Tenant Selection Plan-** States the policies and procedures that include descriptions of the eligibility requirements and income limits for admission.



# WORKING TOGETHER

The HUD Model Lease, Housing and Community Rules, and Tenant Selection Plan work hand in hand to provide the occupancy requirements and procedures to ensure eligible applicants are selected for occupancy, that tenants receive the proper level of assistance, and assure tenants are treated fairly and consistently.



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# WHAT HAS STAYED THE SAME?

- The HUD Model Lease, Housing and Community Rules, and Tenant Selection Plan are still enforcing much of the same policies and procedures from before.
- Page one (1) of the Residential (Dwelling) Lease Agreement covered topics still included in the HUD Model Lease. With the exception of the Community Service Self Sufficiency Requirement which will no longer be mandated under 4350.3. The majority of the policies and procedures from the remainder of the Residential(Dwelling) Lease Agreement were dovetailed with the requirements provided by the 4350.3 which speaks for the Multifamily Housing Programs, and the IRS Code Section 42 that supports the Low Income Housing Tax Credit Program.
- The goal of the Housing and Community Rules during the conversion is to keep the resident rights and participation requirements consistent with HUD requirements.



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## MODEL LEASE

All properties converting under RAD must use form HUD 90105-A *Model Lease for Subsidized Programs*. This Model Lease will also be utilized for the Low Income Housing Tax Credit program. The HUD Model Lease is supplemented by lease addendums and lease attachments which are:

- HUD-50059
- HUD-50059-A
- Move-in inspection report
- Housing and Community Rules
- Lead-based paint disclosure form;
- Pet Rules (if applicable);
- Owner's Live-in Aide addendum (if applicable);
- Owner's Police or Security Personnel addendum (if applicable).

*Required lease attachments listed on page 6-7 of the 4350.3*



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# MODEL LEASE AND HOUSING AND COMMUNITY RULES

The following topics were removed from the Housing and Community Rules, but are still located on the HUD Model Lease.

- **Charges for Late Payments and Returned Checks pg. 2 of the HUD Model Lease**

The delinquent rent fee according to page 6-38 and 6-39 of the 4350.3; is on page 2 section 5 of the Model Lease “Charges for Late Payments and Returned Checks states: *On the sixth day, the owner may charge a fee, not to exceed \$5 for the period of the first through fifth day that the rent is not paid. Additionally, the owner may charge a fee of \$1 per day for each additional day the rent remains unpaid for the month. The total late charge assessed for the month does not exceed \$30.*

- **Security Deposits pg. 3 of the HUD Model Lease**

Topic was repeated on the Residential (Dwelling) Lease Attachment page 4.

- **Termination of Tenancy pg. 11 of the HUD Model Lease**

Model Lease states Tenant must provide a thirty (30) day written notice before moving from the unit; the Residential (Dwelling) Lease Agreement states Tenant may terminate Lease at any time by giving a fifteen (15) day written notice to HACEP.



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# WHAT'S NEW?

Properties participating in the conversion will fall under the 880 regulations. Because of this properties must follow the HUD Handbook 4350.3 The Housing and Community Rules flow in the same direction as the Public Housing Residential (Dwelling) Lease Agreement, but the following additions of information have been made in order to comply with the requirements of the HUD Handbook 4350.3. The Tenant Selection Plan now refers to the site based wait list as opposed to the previous community wide wait list method used before.



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# MAIN TOPICS ADDED TO THE HOUSING AND COMMUNITY RULES

## • No Smoking Policy

On pages 8 and 9 of the Housing and Community Rules, the Smoking and No Smoking Policy have been added to promote a smoke-free environment and as a health and safety concern to the elderly, families and children of the properties. Page 6-21 of the 4350.3 mentions that there are no statutory or regulatory provisions governing smoking in assisted housing. Owners are free to adopt reasonable rules that must be related to the safety and habitability of the building and comfort of the tenants.

## • Termination Notification

Termination Notification located on page 13 of the Housing and Community Rules, are included to mention the additional termination notification requirements incorporated by HUD to comply with section 6 of the Act for public housing projects converting assistance under RAD, that supplement notification requirements in regulations at 24 CFR 880.607.



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# MAIN TOPICS ADDED TO THE HOUSING AND COMMUNITY RULES CONT.

## • Grievance Process

Grievance Process on page 14 of the Housing and Community Rules includes the previous “Grievance Procedure” paragraph mentioned on page 17 of the Residential (Dwelling) Lease Agreement, now bullet “E”. Added are the program rules incorporated by HUD stating resident procedural rights that comply with the requirements of section 6 of the Act for public housing projects

## • Modification of the Housing and Community Rules

On page 14 of the Housing and Community Rules, provide the same message as the previous “Modification of This Lease” listed on page 17 of the Residential (Dwelling) Lease Agreement. Changes made are to make reference to the Housing and Community Rules, instead of referencing the document as “this lease”.



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# CHANGES TO SUB TOPICS IN THE HOUSING AND COMMUNITY RULES: DAMAGES/CHANGES TO RENT

## Residential (Dwelling) Lease Agreement

### Page 3

The Tenant will not be charged for repairs/damages due to normal wear and tear. **However, the Administrative Fee of up to \$150 will apply for all unreported damages/needed repairs.**

### Page 3

**C. Charges in addition to rent are due two weeks after Tenant receives HACEP's written notice of the charges.**

Such charges are subject to Grievance Procedures and will not be considered late during the grievance process.

**D.** Tenant is responsible for charges incurred for the misuse or abuse of, or damages to any HACEP property including, but not limited to, any dwelling unit, community hall, community hall equipment and furnishings, playgrounds and playground equipment, grounds, landscaping, lawns, shrubs, trees, fences, etc.

## Housing and Community Rules

### Page 2 of the Housing and Community Rules:

However, damages caused by carelessness, misuse, or neglect on the part of the tenant that poses a threat to the health or safety of other tenants, HACEP employees, or persons residing in the immediate vicinity of the premises will become the obligation of the Tenant to reimburse HACEP within 30 days after receiving a bill for damages from HACEP.

***From page 6-41 of the 4350.3.***

### Page 2 of the Housing and Community Rules:

**C.** Charges in addition to rent are due thirty (30) days after Tenant receives HACEP's written notice of the charges. ***From page 6-41 of the 4350.3.***

**D.** A refundable security deposit will be imposed for the use of the community center. The deposit will be 100% reimbursed if no misuse, abuse, or damages are incurred to the community center, and/or to the community center equipment and furnishings. ***Charges for the use of the community center can only be done in the form of a refundable deposit.***



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# CHANGES TO SUB TOPICS IN THE HOUSING AND COMMUNITY RULES: PAYMENT METHODS

## Residential (Dwelling) Lease Agreement

### Page 3

**PAYMENT METHODS** **Rent payments and other charges must be mailed** along with payment stub and Tenant Number to the following address, or other location/method as determined by HACEP:

**HACEP-TAR P.O. BOX 660797 DALLAS, TX**

**75266-9621** An envelope will be included in the billing statement and Tenant will be responsible for the cost of postage on the envelope. Rent and other payments will be accepted only in the form of money orders, cashiers checks, personal checks, or with a draft set up with HACEP.

## Housing and Community Rules

### Page 2

**PAYMENT METHODS** Rent payments and other charges will be accepted at your local management office, and will be accepted only in the form of money orders, cashier's checks, personal checks, mailed to the complex manager, or with a draft set up with HACEP. Personal checks and drafts will be accepted until more than one (1) Non-sufficient Funds (NSF) check is presented. An NSF fee of \$25.00 will be assessed against the resident's account on the second or any additional time a check is not honored. The resident will then be required to make all subsequent payments using money orders or cashier's checks. Cash payments will not be accepted.

***Rent payments and other charges are no longer mailed to Dallas, TX.***



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# CHANGES TO SUB TOPICS IN THE HOUSING AND COMMUNITY RULES: UTILITIES/CHANGE IN FAMILY COMPOSITION

## Residential (Dwelling) Lease Agreement

### Page 4

Tenant agrees not to waste the utilities provided by HACEP and to comply with any applicable law, regulation, or guideline of any government entity regulating utilities or fuels. **A continued waste of utilities may result in a loss or reduction of HACEP Utility Allowance and/or termination of the Lease.**

### Page 5

Rent will not change during the period between regular re-examinations, UNLESS during such period: **1.) A person with income who has met the eligibility criteria by HACEP is added to the household.**

## Housing and Community Rules

### Page 2

If a tenant exceeds the amount of allowances for utilities provided by HACEP, tenant is responsible for the overage, which must be paid either to HACEP or directly to the utility suppliers. A continued waste of utilities will be reported to the appropriate utility agency.

### Page 3

A change in family composition; An increase in a family's cumulative income of \$200 or more a month; An increase in allowances (e.g., number of dependents, a new disability assistance expense ;) A decrease in income (e.g. a decrease in income that will last more than 30 days ;) A change in citizenship or eligible immigration status of any family members.

*From page 7-23 of the 4350.3.*



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# CHANGES TO SUB TOPICS IN THE HOUSING AND COMMUNITY RULES: “PROVISIONAL” RENTS/OCCUPANCY OF ACCESSIBLE DWELLING UNITS

## Residential (Dwelling) Lease Agreement

### Page 6

"Zero" or "Provisional" Rents: If Tenant is placed on "Zero" or "Provisional" rent, the Tenant must report to the respective Community Manager every **thirty (30) days**. Tenant must provide HACEP with current information regarding changes in status of the household income, family composition and assets. Failure to report to HACEP Community's Manager every **thirty (30) days** as required may be grounds for termination of the Lease.

### Page 6

A Tenant without disabilities who is housed in an accessible or adaptable dwelling unit must transfer, **at HACEP's expense, to a dwelling unit without such features should a Tenant with disabilities need the dwelling unit.**

## Housing and Community Rules

### Page 3

"Zero" or "Provisional" Rents: If Tenant is placed on "Zero" or "Provisional" rent, the Tenant must report to the respective community Manager every ninety (90) days. Failure to report to HACEP community's Manager every ninety (90) days as required may be grounds for termination of the Lease.

*From page 22 Appendix 3 of the 4350.3.*

### Page 4

A Tenant without disabilities who is housed in an accessible or adaptable dwelling unit must transfer to a dwelling unit without such features should a Tenant with disabilities need the dwelling unit, in accordance to 24 CFR 8.27 Occupancy of Accessible Dwelling Units.



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# CHANGES TO SUB TOPICS IN THE HOUSING AND COMMUNITY RULES: TRANSFER OFFERS

## Residential (Dwelling) Lease Agreement

### Page 6

**A maximum of two (2) offers** may be made for such a move; the refusal of the Tenant to move to a new unit is **a violation of the terms of this Lease and shall result in the termination of the Lease.**

## Housing and Community Rules

### Page 3

**\*One offer** will be made for such a move; the refusal of the Tenant to move to a new unit is a violation of the terms of the Lease and shall result in Tenant being responsible for paying HUD approved market rent.

*Page 7-29 of 4350.3, Transfers states a Tenant may remain in the unit and pay the HUD-approved market rent.*

**\*\*\*\*\*one offer rule still under consideration\*\*\*\*\***



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# CHANGES TO SUB TOPICS IN THE HOUSING AND COMMUNITY RULES: LIHTC TRANSFERS/CRIMINAL ACTIVITY

## Residential (Dwelling) Lease Agreement

LIHTC TRANSFERS NOT INCORPORATED IN THE RESIDENTIAL (DWELLING) LEASE ATTACHMENT. THIS PARAGRAPH IS ACCORDING TO THE IRS CODE SECTION 42.

### Page 7

**Criminal Activity** Criminal activity on or near HACEP property is prohibited and shall result in the immediate termination of the Lease. HACEP's Grievance Procedure does not apply in cases involving criminal activity. Public Law 100-690, Subtitle C, Title V and Section 9, Public Law 104-120, "One Strike and You're Out" states as follows: Any Tenant, any member of the Tenant's household composition, guest, or any other person under the Tenant's control

## Housing and Community Rules

### Page 4

LIHTC families transferring to a unit in a different building will be treated as a new household. Therefore a new initial certification will be completed to determine income eligibility for the unit. LIHTC families transferring to a unit within the same building will not need to complete a new initial certification.

### Page 5

**Criminal Activity.** Tenants, household members, and guests shall not engage in any criminal activity while the Tenant is a Tenant in Section 8 Project Based Rental Assistance properties. Any such activity shall be cause for immediate termination of tenancy. Public Law 100-690, Subtitle C, Title V and Section 9, Public Law 104-120. Tenants, household members, and guests shall comply with all obligations imposed upon the Tenants by applicable provisions of City, State, and Federal Codes materially affecting health and safety.



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# CHANGES TO SUB TOPICS IN THE HOUSING AND COMMUNITY RULES: EIV (Enterprise Income Verification)

## Residential (Dwelling) Lease Agreement

*EIV NOT INCLUDED IN RESIDENTIAL (DWELLING) LEASE ATTACHMENT. ADDED TO HOUSING AND COMMUNITY RULES EIV WILL BE USED AS A THIRD PARTY SOURCE TO VERIFY TENANT EMPLOYMENT AND INCOME INFORMATION DURING MADATORY RE-EXAMINATIONS OR RE-CERTIFICAITONS OF FAMILY COMPOSITION AND INCOME.*

## Housing and Community Rules

### Page 5

**EIV (Enterprise Income Verification).** Tenant and each adult household member must disclose complete and accurate information including full name, SSN, and DOB; income information; and certify that reported household composition, income, and expense information is true. If Tenant fails to provide required information including changes in family composition, changes in income, social security numbers for new household members, or sign/submit required consent and verification forms (form HUD-9887 and form HUD-9887-A) may result in the termination of assistance.



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# CHANGES TO SUB TOPICS IN THE HOUSING AND COMMUNITY RULES: SMOKE DETECTORS

## Residential (Dwelling) Lease Agreement

### Page 9

Smoke Detectors. Tenant shall keep working batteries in each smoke detector installed in the dwelling unit, shall test the smoke detector monthly to check the battery and operating condition, shall pay for replacing dead, non- functioning or missing batteries **and installing new batteries, and shall report immediately to the Community's office the defective condition of any smoke detectors. Any person in the household or guest determined to have tampered with, destroyed or removed batteries from any smoke detector will be charged an administrative fee of \$150. Any second offense will result in termination of the Lease.**

## Housing and Community Rules

### Page 6

immediately install new batteries, and shall promptly report to the Community's office the defective condition of any smoke detectors. Any person in the household or guest determined to have tampered with, intentionally destroyed, disconnected or removed batteries from any smoke detector without immediately replacing batteries shall be subject to damages, civil penalties, and attorney's fees under section 92.2611.



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# TENANT SELECTION PLAN REQUIREMENTS

The Tenant Selection Plan is a truncated version of the Admission and Continued Occupancy Policy (ACOP) the following elements exist in the ACOP, but are also requirements of the HUD Handbook 4350.3; with the inclusion of IRS Code Section 42 requirements.

- Project eligibility requirements:
- Project-specific requirements, Citizenship requirements; and Social security number requirements.
- Income limits.
- Procedures for accepting pre-applications and processing applications;
- Procedures for selecting from the site based wait list:
- Procedures for applying preferences;
- Applicant screening criteria (see Chapter 4, Sections 1 and 4);
- Required drug-related or criminal activity criteria (*including State lifetime sex offender registration check in all states where applicant household members have resided or using a database that checks against all state registries, e.g., the Dru Sjodin National Sex Offender Database.*)
- Procedures for using the EIV Existing Tenant Search; (*LIHTC Program will not use EIV to verify Tenant information.*)
- Other allowable screening criteria including credit worthiness screening for LIHTC participants; and Procedures for rejecting ineligible applicants.
- Occupancy standards.
- Unit transfer policies, including selection of in-place residents versus applicants from the waiting list when vacancies occur.
- Policies to comply with Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and other relevant civil rights laws and statutes.
- Policy for opening and closing the site based wait list for the property.
- Eligibility of students.
- Policies for applying Violence Against Women Act (VAWA) protections.



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# TENANT SELECTION PLAN FULL-TIME STUDENT RULE (LIHTC)

Low Income Housing Tax Credit (LIHTC) defines a student as someone who attends school full time for any part of five or more months in a calendar year (months need not be consecutive). A student's eligibility for LIHTC will be based on the Full-Time Student Rule. Generally, a household won't qualify for a LIHTC unit if the household is comprised entirely of full-time students. Exceptions to the Full-Time Student Rule:

- One tenant is not a full-time student;
- Receives Title IV of Social Security Act (TANF);
- Is enrolled in Job Training Partnership Act program or similar program;
- Was previously a foster child (effective after 07/31/2008);

Exceptions for a unit comprised entirely of full-time students are:

- Single parents and their dependent children (but parent and children can't be dependents of another individual), OR...
- Tenants are married and file joint tax return (or able to file a joint tax return).

Student status must be verified by the institution's registrar's office, status will be verified on a semester basis, annual recertification (by the anniversary of the household's initial move in date into the unit).



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THANK YOU!



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