



TE-MOAK TRIBE OF WESTERN SHOSHONE HOUSING AUTHORITY

LOW RENT ADMISSIONS AND OCCUPANCY POLICY

Te-Moak Housing Authority

It is the hope and goal of the Te-Moak (also known as TMHA or Lessor throughout this policy) Tribally Designated Housing Entity (TDHE) board that all Lessee's comply with the terms and conditions of their Low Rent Lease determined for a period of one (1) calendar month. TMHA is subject to the Indian Civil Rights Act (Title II of the Act of 1968, 25 U.S.C. 1301-03), which provides that no Indian Tribe in exercising power of self-government shall deny due process or the equal protection of its laws to any person within its jurisdiction. This policy sets forth the procedures to be used by the TMHA to ensure equal and fair treatment, and full compliance with The Act, Public Law 104-330, 25 CFR 1000, the ACC, Part II, and other HUD laws and regulations.

CHAPTER 1

NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES

Section 1.1 Objectives (NAHASDA, Subpart 8-201)

It is the policy of the Te-Moak TMHA:

1. To assist and promote affordable housing pursuant to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families;
2. To ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members; and
3. To coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members; and
4. To plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and
5. To promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

CHAPTER 2 CONDITIONS GOVERNING ELIGIBILITY

Section 2.1 Applicant or Participant's Criminal Conviction Information

In accordance with Title II, Sec. 208 of NAHASDA, TMHA will have the authority and ability to obtain any criminal information on all applicants and their adult household members (age 18 and older) as well as existing participants and their adult household members (age 18 and older) that reside in the TMHA's units.

Section 2.2 Eligibility for Admission

In order to apply for admission to the HUD-aided low rent units operated by TMHA, applicants must be:

1. The Head of Household (Resolution No. 81-TM-74) (Resolution No. 81-EC-38) must be an enrolled member of the Te-Moak Tribe of Western Shoshone; and
2. The Head of Household and all participants over 18 must have verified continuous income and provide verification of 12 months employment and/or seasonal work (W-2, check stubs) qualify for the HUD income guidelines.
3. Have an annual family income that does not exceed the applicable income limits for admission. But must meet the minimum wage income of \$15,000 no matter the number of people in household. If annual earnings are less than current minimum wage income for full time, income will be considered inadequate, or
4. Have consistent year around visible income (must show proof) from all sources of each member in the household as determined in accordance with criteria described by the Secretary of Housing and Urban Development.
5. Wage or salary income total money earnings received for work performed as an employee during the calendar year. It includes wages, salary, Armed Forces pay, commissions, tips, piece-rate payments, and cash bonuses earned before deductions were made for taxes, bonds, and pensions.

Section 2.3 Social Security Income

Social Security pensions and survivor's benefits and Social permanent disability insurance payments made by Social Security Administration prior to deductions.

Section 2.4 Public Assistance Income Includes:

1. Supplementary security income payments made by Federal or state welfare agencies to low-income persons who are aged 65 years old or older, blind, or disabled; and

2. Aid to families with dependent children; and
3. Indian General Assistance (IGA)

Section 2.5 Retirement or Disability Income includes the following:

1. Disability income from sources such as worker's compensation; companies or unions; Federal state or local government; and the U.S. military; and
2. Periodic receipts from annuities and insurance; and
3. Regular income from retirement plan(s)

Section 2.6 All Other Income Includes

1. Unemployment compensation;
2. Veterans Administration (VA) payments;
3. Alimony and child support
4. Military family allotments;
5. Income from all Tribal/Band Stipends which is a fixed regular sum paid as a salary or allowance.

Section 2.7 Annual Income Does Not Include the Following:

1. Income from employment of children (including foster children) under the age of 18 years.
2. Payments received for the care or foster children or foster adults (usually persons with disabilities, unrelated to the Lessee family, who are unable to live alone).
3. The full amount of student financial assistance paid directly to the student or to the educational institution.
4. The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims, or from funds held in trust for an Indian Tribe by the Secretary of the Interior.

Section 2.8 Low Rent Applicants and/or participants Must Not Own Another Home, as verified through County records in the United States. If the applicant and/or Participant have ownership of another home, the application will be denied.

1. Any applicant and/or participant that had ownership, successorship or inheritance of a HUD home and sold the home will not qualify for a Low Rent unit.

Section 2.9 Qualify as A Family (Revised 11/17/05, Resolution 15-TMHA-48)

A family can consist of any combination of immediate or extended family members, as listed, who are conducting themselves in a manner consistent with a family institution.

1. Parent(s) with minor child(ren).
2. If a single parent or child(ren) has not been living with Parent(s), they must have legal or court documentation showing physical Custody of the child(ren).

3. Only one parent may claim the Custody of a child to be eligible as a TMHA applicant or Participant. If parents or custodians have joint Custody, TMHA will only authorize one unit per child named.
4. A married couple with no children. (marriage certificate is required)
5. Documentation of citizenship.
6. Siblings shall be each of two or more children or offspring having one or both parents in common;
 - a. Certification must be obtained that they will reside together for up to one (1) year once a home is provided. If one of the siblings is a minor, the non-minor sibling will need to show legal Guardianship or Custody of all minor siblings. Should only one sibling reside in the unit before the one (1) year, they shall be subject to eviction if the application was an attempt for a single person to obtain a home through fraudulent methods.

Section 2.10 Elderly applicants (62 years of age) who receive Social Security or Disability benefits will not be required to follow the HUD income guidelines, as long as the proof of income is turned in from the Social Security Administration.

1. **An elderly family (62 years or older is considered an elderly) living with a spouse or adult sibling(s) essential to their care or well-being.**
 - a. Certification on the adult sibling(s) must be obtained that once a home is provided, they will reside together. They shall be subject to eviction that the application information was false. The listing of a second family member on the application was an attempt for a single person to obtain a home through fraudulent methods.
2. **A disabled family member living with a spouse or adult sibling(s) is essential to their care or well-being.**
 - a. Certification on the adult sibling(s) must be obtained that once a home is provided, they will reside together. They shall be subject to eviction that the application information was false. The listing of a second family member on the application was an attempt for a single person to obtain a home through fraudulent methods.

Section 2.11 Other combinations defining family is as long as the family consists of a minimum of two of the following family members: Aunts, Uncles, Grandparents, Grandchildren, Nieces, Nephews, and Cousins.

- a. Certification must be obtained that once a home is provided, they will reside together for up to one (1) year. If one of the family members is a minor, the non-minor family members will need to show legal documentation of Guardianship or Custody of the minor family member. Should only one family member reside in the unit prior to the one (1) year, they shall be subject to

eviction that the application information was false and the listing of a second family member on the application was an attempt for a single person to obtain a home through fraudulent methods.

3. Except, if an eligible family exists on the Wells Band Low Rent waiting list, a single person who meets the remaining eligibility for admissions criteria can be eligible for a unit, temporary until such time an eligible family qualifies for a unit and give a 30-day notice to the Occupant (to vacant said premises). (BOC addition revision 02/03/99)
4. The Battle Mountain Band Council has designated the two-bedroom low rent unit located at 2311 West Sagehen in Battle Mountain as an elder's home. (Resolution 10-BM-09)
 - a. Except if no eligible elder exists on the Battle Mountain Band Low Rent waiting list. A single person who meets the remaining eligibility for admissions criteria can qualify for the unit temporary until such time an eligible elder (62 years or older) qualifies for the 2311 West Sagehen unit and give a 30-day notice to the Occupant to vacate said premises. (Resolution 10-BM-09)
5. A need for housing for "single and single elders 55 or older", (Resolution 19-BM-22) the Battle Mountain Band is requesting for two more homes to be occupied by single and single elders 55 years or older who meet the remaining eligibility for admissions criteria can be eligible for a unit, temporarily until such time an eligible family qualifies for a unit and give a 30-day notice to the Occupant to vacate said premises. Therefore, the last Low Rent unit occupied will be the first to be given the 30-day notice and so on. Those single elder Lessees living in the elder units are obligated to comply with the following rules. (Resolution 19-BM-28)
 - a. Not to assign the Lease or Sub-lease the unit
 - b. Not to provide housing for boarders or lodgers
 - c. If, through any cause, a signer of the lease ceases to be the signer of this lease, this lease shall terminate.
6. (TDHE amendment Resolution 20-TMHA-28) Due to the vacant low rental units in Battle Mountain and Wells, the TDHE Board of Commissioners will not require applicants from these two communities to comply with the recommended HUD income guidelines. The Te-Moak TMHA will consider any source of income, i.e., disability, stipend income, Indian General assistance (IGA), and other types of income as listed. A home shall be offered if the lessee can secure the utility deposit, utility fees, and the required Security Deposit for the rental. Tenants must procure water, electricity, as and /or propane for the unit and continuously provide those utilities to the unit throughout Tenant's occupancy, the Lessor is not responsible for the provisions of utilities and shall have no liability, if Tenant fails to obtained any utility service, this Lease maybe terminated by the Lessor or Tenant at any time giving the other party thirty (30) days written notice, in accordance with its policy governing Collections and Compliance.

- a. (TDHE amendment Resolution 10-TMHA-99 Except, if no eligible family exists on the South Fork Band Low Rent waiting list, a single person who meets the remaining eligibility for admissions criteria can qualify for the two-bedroom rental unit located at Cedar Circle #3 and Scattered Site #29, temporarily until such time an eligible family qualifies for the unit and give a 30-day notice to the occupant to vacate said premises.
- 7. Single near elderly (55-61) Lessee eligibility admission for a unit in the Senior Complex (on the Elko Colony) will make the capped payment of \$132.00 a month. While priority is to the elderly 62 years and older, and lastly to single individuals who meet other requirements.
 - a. (TDHE addition revision 05/17/07, Resolution 07-TMHA-23) Except if no eligible elderly person or near-elderly person exists on the waiting list for the Senior Complex, the single (55-61) disabled person who meets the above requirements, and the remaining Low Rent eligibility admissions criteria may be eligible for a Senior Complex unit. However, once there is a qualified older adult, the single person will be given a 30-day notice to vacate the Senior Complex unit.

Section 2.12 Rental Payments - The Minimum Lessee Charge of \$150.00 is due on or before the 1st day of each month.

- 1. This monthly rent may change for reasons stated in (Chapter 7, Section 7.5) of this Policy.
- 2. The Board of Commissioners approved a minimum flat rate rent of \$150.00 for the low rent units, on September 17, 2020, at the regularly called meeting. The TDHE Board of Commissioners approved; per Resolution 20-TMHA-29, the Minimum Lessee Charge increase applies to those Lessees whose income falls below the adjusted income will pay the one hundred and fifty (\$150.00) dollars regardless of Lessee reporting loss of jobs. The requirement for the Low Rent Lessees to report income and have verified income for at least 12 months out of the year per the Low Rent Admissions and Occupancy Policy. Failure to provide proof of employment will result in following the steps of the Collection and Compliance Policy which shall result in the Termination of your Low Rent Lease.

Section 2.13 Income status limits.

Have an annual family income, which does exceed the applicable income status limits for admission. Except if no eligible low-income family exists on the Low Rent waiting list, a non-low-income family may be approved per the HUD Federal Rules and Regulations that states the TMHA may use up to 10 percent of its annual grant amount for families whose income falls within 80 to 100 percent of the median income. If approved, the applicant cannot receive the same benefits provided to low-income families. The rent to be paid by a non-low-income family need not exceed the fair market rent value of the unit. (Amended 01/15/09, Resolution (09-TMHA-01)

1. Should a participant or applicant report income that does exceed the applicable income limits, TMHA will calculate their payment with no cap.
2. A participant or applicant exceeding the applicable income limits will have the opportunity to remain in housing for 6 months while looking for other housing opportunities.
3. Be 18 years of age or older.
4. Provide all requested information for each member of the household and sign the required forms.
5. If an elder is currently residing in a Project 16-4 unit (Elder Complex), they can only be considered for a larger two-bedroom unit in the Elko area should one becomes available, based on the geographical preference. (Addition on 09/17/98 by BOC)
6. Tribally enrolled minors may apply for housing but will not be considered or approved until the minor becomes eighteen years of age as stipulated in the policies. (Addition revision 09/17/98)

Section 2.14 Eligibility for Continued Occupancy in the event of: Death of the Head of Household and/or Medical or mental incompetence valid with documentation from a licensed physician:

1. Tribally enrolled Te-Moak member and/or provide Guardianship of tribal members that are under the age of eighteen (18) within a 60-day window of occurrence.
2. Have verified current income for 12 months out of the year (W-2's or check stubs.)
3. Qualify as a Family (see Eligibility for Admission)
4. Any unit that pertains to this section will be given a mandatory 2-day notice to be drug swabbed, any unit that drug swabs have tested positive to drug use will not be able to retain their place of residence and will be given a 30-day Notice to Vacate.
5. Rent, utilities payments must be current.
6. When the lessee vacates the property for more than fifteen (15) days without prior notice to the Lessor and fails to use the home as a place of residence for his/her family or fails to use the home as the place of primary residence
7. Participants with children in the home who are 18 years of age or older and meet all other eligibility requirements for occupancy will have the ability to be presented to the TDHE on a case-by-case hearing to decide eligibility for continued occupancy. (Revised 10/21/04, Resolution 04-TMHA-35)

Section 2.15 Provide all required information at annual re-examinations within a 60-day period:

1. Annual Recertification for all household members.
2. Release of information and Certification Page must be signed by all members of the household that are 18 years of age and older.

3. Have complied with annual inspection requirements, must be in full compliance. See *Collection and Compliance Policy*.

CHAPTER 3 SELECTION OF PARTICIPANTS

Section 3.1 In Selecting Families

It shall be the policy of TMHA to place families in units appropriate for their family composition, taking into consideration the availability of such sized units.

1. The size of the family, size of the unit, and the date of application shall determine placement.

Section 3.2 Non-Selection Criteria

The TMHA shall not select any applicant for the program if it is determined during the application verification process, which is outlined in Chapter 5 of this policy, that the applicant family:

1. Does not have the ability to meet Lessee obligations.
2. Has previously abandoned or been evicted from a HUD assisted home operated by this or any other TMHA within five (5) years. After five (5) years of abandonment or eviction, the TDHE board may decide on a case-by-case basis. (Revised 10/21/04, Resolution 04-TMHA-35)
3. Owes debt incurred from prior occupancy of a HUD assisted home at this or any other TMHA.
4. Was evicted for non-compliance with the provisions of the rental lease agreement other than drug activity; the applicant's application may be approved and placed on the waiting list. In order for a home to be offered to the applicant, the applicant shall complete a financial literacy counseling course, as well as any other developed counseling courses in maintenance, safety, etc., that TMHA may have in place. If the applicant does not complete the required courses, the applicant's application will be presented to the TDHE board for removal from the waiting list.
5. Has ownership of a home as verified through County records in the United States. (Addition Revision 10/21/04 Resolution 04-TMHA-35)
6. Any person listed on an application that has been convicted of a Felony Tier 2 or Tier 3 sex offense shall be permanently ineligible for any type of Housing Assistance program managed by the TMHA. (Amended: July 15, 2010 / Resolution No. 10-TMHA-62).

7. Applicants who have convictions for Rape, Prostitution, or Sexual Deviation, shall be permanently ineligible for any type of Housing Assistance program managed by the TMHA. This includes convictions for the offenses of the following:
- Sodomy
 - Prostitution
 - Carnal Abuse
 - Child Molestation
 - Impairing the Morals of a Minor
 - Similar Crime Indication of a Sexual Deviation
- (Amended: July 15, 2010 / Resolution No. 10-TMHA-62)

8. Applicants or participants who are known to have a Criminal Conviction shall NOT be eligible for any type of Housing Assistance program managed by the TMHA. This includes cases in which the applicant, Participant, or a member of the applicant or participant family, who is expected to reside in the affected household was or is engaged in any criminal activity which involves crimes of physical violence to persons or property or the nature of which would be detrimental to the safety and welfare of other Lessees or their peaceful occupancy of the premises.

Section 3.3 Violent Crimes: Anyone convicted by court disposition of "violent crimes" shall be permanently ineligible" for any type of Housing Assistance from the TMHA

For the purpose of this policy, "violent crimes" are crimes in which the offender uses or threatens to use violent force upon the victim. This entails both crimes in which the violent act is the objective, such as murder, as well as crimes in which violence is the means to an end, such as robbery. Violent crimes include crimes committed with and without weapons.

The TMHA will adhere to such crimes as identified in the CFR, Major Crimes Act, not to exclude any violent crimes listed in the Indian Country Criminal Jurisdictional Chart, any State, Federal or Tribal definitions of Violent Crimes.

1. After a period of five (5) years, and there are NO further instances of criminal activities, the individual may be considered for Housing Assistance programs managed by the TMHA. This consideration will be heard in closed session of the Te-Moak TDHE board meeting, and a decision concluded by the TDHE.
2. The five (5) year period is calculated based on the most recent date of conviction.
3. TDHE will have the authority to evict a Low Rent Lessee if it is verified that they are harboring /boarding a person who has committed a crime as identified in the Indian Country Criminal Jurisdictional Chart Major Crimes Act. TMHA staff will follow the Collection and Compliance Policy for evictions.

Section 3.4 Habitual Criminal: For the purpose of this policy a habitual criminal is someone who is repeatedly arrested for criminal behavior.

1. Applicants who are determined to be habitual criminals shall be permanently ineligible for any type of Housing Assistance program managed by the TMHA.
2. This includes cases in which an applicant or a member of the applicant's family, who is expected to reside in the household, has demonstrated over time that he/she is a habitual criminal.
3. While individually, the crimes on the individual's record may NOT warrant REJECTION, collectively, they would.
4. For example, an individual has ten (10) or more arrests and convictions within the past three (3) years. This shows a pattern of criminal activity and is NOT a person desired in housing units. Their demonstrated behavior would likely be detrimental to the safety and welfare of the other Lessees or the other Lessee's enjoyment and peaceful occupancy of the premises.
5. Has had a prior criminal conviction within the last 3 years will be denied. However, the denied applicant will have the right to file a grievance in accordance with the Te-Moak TMHA's Grievance Policy and will have the opportunity to plead their case with the TDHE Board. (Amended January 21, 2021, Resolution 10-TMHA-16)

Section 3.5 In order to determine the detrimental effect an applicant's conduct would likely have on project or the safety, health or welfare of its residents, documentation is to include letters and reports of interviews or telephone conversations with reliable sources, such as current and previous landlords, employees, court records, and police departments, and conversations with the applicant in the TMHA offices or during a home visit.

The documentation reports shall include the date, source of information, name, and title of person contacted, and a summary of the information received. The information shall include, but will not be limited to the following:

1. Time, nature, and extend to the applicant's habits and practices in regard to:
2. Past performances in meeting financial obligations, especially rent and/or utilities, disturbances or neighbors, destruction of property, living or housekeeping habits, history of criminal activity, property, alcohol or drug abuse, and other acts which would adversely affect the health, safety, or welfare of other residents.

The reports shall also include an evaluation of factors, which indicate a probability of favorable future conduct of financial prospects, such as:

1. Evidence of rehabilitation, evidence of willingness to participate in appropriate counseling service programs, and availability thereof, and availability of training or employment programs in the locality.

2. The information obtained from verification is evaluated and can be a determining factor in the TMHA's selection procedures.
3. Negative reports and/or information can affect an applicant's ability to obtain a home.

CHAPTER 4 OCCUPANCY STANDARDS

Section 4.1 To avoid overcrowding and prevent waste of space, homes shall be assigned in accordance with the occupancy standards set forth below.

1. A family shall be assigned to a unit reasonable for its household composition, taking into consideration the availability of such sized units.

Section 4.2 **Occupancy with Respect to Persons of Opposite Sex**

1. Homes are to be assigned so that it will not be necessary for person of opposite sex, other than spouses, to occupy the same bedroom.
2. Homes will be assigned so as not to require use of the living room for sleeping purposes.
3. Every family member, regardless of age is to be counted as a person.
4. Young families may be assigned a larger unit, if appropriate, in anticipation of additional children.

Section 4.3 **Verification and Documentation of Applicant and Participant Data**

To assure that the data upon which determinations of eligibility, preference status, monthly payments and size of dwelling required is based on full, true, and complete, information submitted by each applicant and participant is to be verified and may include, but is not limited to the following:

1. Letters or other statements from employers and other pertinent sources giving authoritative information concerning all amounts of income, income tax forms may be required.
2. Copies of documents in the applicant's possession which substantiate his/her statements, or brief summary of the pertinent contents of such documents.
3. Income tax records certified statements and/or summary data from books of account from self-employed persons, persons whose earnings are irregular, such as salespersons, seasonal workers, etc., itemized expenses, and net income.
4. Memoranda of verification data obtained by personal interview, telephone, or other means, i.e., e-mail with source, date reviewed, and the person receiving the information clearly indicated.

The staff member must verify and date stamp all information delivered to the TMHA directly by the applicant.

Section 4.4 Summary of Verification Data and Certification

Verification: Data is to be reviewed and evaluated as received for completeness, accuracy, and conclusiveness. Where the information received is not completely adequate in all respects, follow-ups or new efforts to obtain such information are to be made and carried through to conclusion. If during the verification process it becomes evident that for one or more reasons an applicant or participant is ineligible, the investigation is to be discontinued and the applicant notified in writing of his/her ineligibility, and the reason for ineligibility clearly stated.

As verification of all necessary items for each application or recertification is complete, a summary of the verified information and the sources are to be documented on the participant's profile and review sheets. The summary of the review is to cover the following determination and the basis for such:

1. Eligibility of the applicant or participant as a family;
2. Eligibility of the family with respect to income limits and income minimum for admission;
3. Size of unit to which the family should be assigned; and
4. Monthly payment, which the family is to pay.

The submittal of false information or the refusal to submit information required under this subpart shall be sufficient cause for TMHA to revoke existing Lease or withhold acceptance to the waiting list.

The applicant's or participant's profile verification, the point's determination, if applicable, and the review sheet will all be combined to determine eligibility for admission or continued occupancy.

Certification: As a part of the application or recertification record of each family determined to be eligible by the TMHA, a designated staff member is to complete and sign the eligibility certifications on the admission review sheet.

Section 4.5. Maintenance of Exterior of Property is required by all Lessees.

Lessees will, at his/her own expense, keep and maintain the leased premises, including the property for a safe, clean, and sanitary living conditions.

CHAPTER 5 QUALIFY OR NON-QUALIFYING CRITERIA AND PROCESS

Section 5.1. Notification to Selected Families

If an applicant is accepted, a resolution will be adopted approving the applicant at the TDHE board meeting. Promptly after approval of the application, the TMHA shall notify the applicant that they have qualified and been approved. The notification to a selected family shall be in writing and shall include the following information:

1. A statement that the family has been selected and will be placed on a waiting list if there is not currently a home available for which they qualify.

2. A copy of the TMHA waiting list requirements (Chapter 6).
3. A statement that the family will be advised at a later date of the time and place for training activities and counseling sessions required for occupancy.
4. A statement that the family's eligibility shall be subject to re-verification at the time a home becomes available.

Section 5.2 Disqualification of a Selected Family

A qualified family could become ineligible for any of the following reasons:

1. No longer qualifies as a family due to change(s) in household composition.
2. TMHA acquires knowledge of a drug and/or alcohol abuse, which could be considered detrimental to the neighborhood. (See Drug Policy)
3. TMHA acquires knowledge of domestic violence or violent behavior(s) supported by background check, court disposition, or incident report which could be considered detrimental to the neighborhood.
4. Income inadequate or non-qualifying for a Low Rent program.

If a qualified family is determined to be ineligible, the TMHA is to notify the family in writing. The notification should state the specific reason(s) for disqualification and inform the applicant or participant that they can schedule an appointment with a staff member of the appropriate department to discuss their situation and, if possible, a corrective action plan in becoming or remaining eligible for the program.

The notification should also inform the applicant of appeal procedures [Ref. Grievance Policy, Article V — VI, Page 4 of 4-this section only applicable to new applicants]. Once an applicant has been disqualified, by resolution at a TDHE board meeting and placed on the inactive waiting list.

Section 5.3 Acceptance of an Available Home

A home is to be in complete repair before it is to be offered to an applicant. Once a home is offered, the applicant has ten (10) days to accept or refuse the home. If the home is accepted, the applicant must transfer or turn on all utilities (electricity, gas, water) in his or her name on date of move in with written proof. The applicant will be charged rent upon move-in date prorated to the end of the month.

Section 5.4 Refusing an Available Home

An applicant can refuse two available homes and still retain their place on the waiting list. However, if they should refuse the third home offered, they will be moved to the end of the waiting list and their original application date replaced with the date of the third refusal.

CHAPTER 6 EXAMINATION AND RECERTIFICATION OF FAMILY INCOME

Section 6.1 Purpose of Examinations and Re-certification

As stated in Section 1000.128 of NAHASDA, the TMHA shall examine the Participant's family earnings and other income prior to initial occupancy and shall conduct recertifications thereafter at least once a year for determining the required monthly payment, for adjusting in the amount so determined.

Section 6.2 Recertification Schedule

The family's "recertification schedule" shall coincide with the date of the effective date except as follows:

1. The date of the first recertification may be extended to not more than 18 months after the initial examination, if necessary, to fit the recertification schedule established by the TMHA.

Thereafter, the recertification process shall commence at least 2 months before the effective date to allow sufficient time for the TMHA staff to verify all information provided by the family.

Section 6.3 Re-certification Procedures

Data assembled at the time of the recertification is to be filed into his/her recertification folder set up for the family at the time of admission.

Section 6.4 Annual Recertification

Receipt of Application for Continued Occupancy and Authorization for Release of Information and Certification Page

1. Each Participant shall be required to complete an annual recertifications submit all information for completion of an application for continued occupancy recertification. All entries are to be completed by the Participant and/or by the person interviewing the Participant on behalf of the TMHA. Changes or corrections are to be initialed and dated by the person making such changes.
2. The Participant must sign the completed application, and all adult (age 18 and older) household members must sign the release of information and Certification Page. Upon completion of the aforementioned documents, the TMHA will process the required certification.
3. Every adult (age 18 and older) in the Participant's household will be required to sign the Authorization for Release of Information and Certification Page. The document will be utilized in the verification of information required by the TMHA.

Section 6.5 Interim Re-determination of Family Income and Adjustment of Monthly Payment

No adjustment of monthly payments is to be affected between the dates of annual recertification (as set forth in Section 7.1 and 7.2 above) except as provided in paragraphs a and b below.

1. In addition to submitting such information as may be required at the time of the annual recertification, participants are required to report the loss of family member(s) through death, divorce, or any other continuing circumstances. In addition, an addition to the family by marriage, birth, or any other continuing circumstances such as additions to the household that exist for more than 60 days.
2. TMHA will no longer permit zero rent; all Lessees will pay the minimum flat rate rent of \$150.00. (Resolution 20-TMHA-29). Those Lessees who cannot make this minimum flat rate rent, TMHA will commence with the Termination and Eviction procedures, as contained in the Collection and Compliance Policy.
3. TMHA does not have an Emergency Status Policy. Those Low Rent / Mutual Help Lessees who submit a doctor's report on health issues will not excuse those Low Rent / Mutual Help Lessees from compliance of the Policies of TMHA, i.e., Rent payments, job requirements, income, inspections, and any other Policies within NAHASDA requirements, as stated in the signed Low rent Lease or MHOA contracts.
4. Participants must report increases or decrease in income, including the loss or addition of principal income Lessors or wage earners, additional exemptions, or retirement. Unemployment or re-employment must be reported when exceeding a 60-day period. Seasonal workers will need to report unemployment, re-employment, and changes in employers; however, since payments are based on annual income and derived from the previous year's income tax records, payments may remain the same. Reductions in monthly payments will occur only if the current payment is more than 20% of the current income. All seasonal or sporadic workers and/or workers with several employers will be required to provide copies of the previous year's income tax records upon each re-examination.
5. Failure to report changes in income can result in retroactive payments and/or eviction. If found that the Lessee now or hereafter misrepresents, intentionally or unintentionally, to Lessor his/her income, employment, family composition, then such misrepresentation shall constitute grounds for termination of the lease agreement.
6. Monthly payments for Low Rent Lessees will not exceed thirty percent (30%) of the adjusted family income. (TDHE approved 3/18/10, Resolution 10-TMHA-43)

Section 6.6. Increase or Decreases in Monthly Payments

1. Increases in monthly payments are to be made effective on the first day of the second month after the changes have been made. The new payment can be retro-activated if necessary.
2. Decreases in monthly payments are to be made effective on the first of the month following verification of the change. No downward monthly payment adjustments are to be processed until all the facts have been verified.
3. Monthly payments for Low Rent Lessees will not exceed thirty percent (30%) of the adjusted family income. (TDHE approved 3/18/10, Resolution 10-TMHA-43)

Section 6.7 Verification and Documentation of Re-Examination Data

To assure the accuracy of data upon which determinations for continued occupancy eligibility and changes in monthly payments are made, the information submitted by the participants shall be verified. This applies to both scheduled recertifications and interim recertifications. Verification procedures are the same as those shown in (Chapter 4, Section 4. 3 and 4. 6)

Section 6.8 Action Required Following Re-Examination

After the Participant has submitted all the information required and called for on the Application for Continued Occupancy, Authorization for Release of Information, and Certification Page, and verifications are completed, the Participant is to be informed in writing concerning:

1. Any changes to be made to the required monthly payment and the date the changes become effective,
2. Any instances of misrepresentation or non-compliance with their Rental Agreement, other HUD rules and/or regulations or TMHA policies, and any corrective or necessary action which is to be taken as a result of the misrepresentation or non-compliance, and
3. If the recertification discloses that the Participant, at the time of admission or at any previous re-examination, knowingly made false or misrepresentations which have resulted in the payment of a lower monthly payment than he or she should have paid, the Participant shall be required to pay the difference between the amount paid and what should have been paid.

Section 6.9 Failure to Comply with Annual and Interim Re-certification

Failure to provide the information and/or documents requested and/or required for recertifications and to comply with the annual or interim recertification is a breach of contract and may result in eviction. The following steps shall be taken for failure to respond or for non-compliance:

After the initial letter is sent out, and the Participant does not meet the deadline given, the TMHA shall then;

1. Send a letter to the Participant informing him or her of the intent to terminate for breach of contract; and
2. Commence termination and eviction procedures, as contained in TMHA's Collection and Compliance Policy.

Section 6.10 Client Service Program

While on the waiting list, the applicant and all household members 18 years old and older will be required to attend budget and counseling sessions. The applicant will be notified of times and dates of sessions being held. The counseling sessions must be attended before an applicant can be placed into a home.

CHAPTER 7 TRANSFERS

Section 7.1 Involuntary Transfer Procedure

TMHA can compel the transfer of Lessees in low rent units for the following reasons:

1. Family size has decreased, and regulations dictate that a smaller unit is required. (See Occupancy Standards Chapter 4-1 and 4-2). This action will be taken only if there are families on the waiting list who qualify for a unit of the size currently occupied by the Lessee.
2. Family size has increased, and regulations dictate that the Lessee occupy a larger unit. (See Chapter 4-1 and 4-2).
3. The Lessee appears to be incompatible with neighbors or lifestyle of neighbors or lifestyles of neighbors, and problems cannot be resolved.
4. The TMHA has determined that the location of the unit could affect the safety of the family and/or its ability to live in safe and sanitary conditions.

The following procedures shall be followed in all cases of involuntary transfer of a Lessee.

1. When the decision is made to compel a Lessee transfer, the TMHA must notify the Lessee of the intent to transfer. Such notice must be served by certified mail or in person.
2. The notice shall inform the Lessee of the reason for the transfer and of the address to which the Lessee will be transferred.
3. If Lessee disagrees with the decision of the transfer, see Grievance Policy.
4. The Lessee will be given 30 days from the date of receipt of the notification to relocate into the new unit and to vacate the current residence.

Section 7.2 Voluntary Transfer Procedure

The transfer procedure of the TMHA sets forth a comprehensive statement for all parties associated with the housing programs. The policy allows for transfers from one Low Rent housing unit to another, providing there are units available in the area identified in the housing application that was BOC approved. Those Lessees who are requesting to transfer to another area will need to resubmit another housing application to be on the waiting list for that area;

those wishing to transfer will be required to recertify income following the HUD Income Guidelines. (Exception, Battle Mountain and Wells.)

1. The Transfer will not allow "jumping over" other applicants on the waiting list.

Procedures and transfer criteria are as follows:

1. A Lessee's request for transfer will be submitted in writing to Te-Moak TMHA and will state the reason(s) for the request to transfer.
2. The Lessee requesting a transfer must not have a delinquent account.
3. The Lessee's utilities must be current.
4. The unit must be inspected for damages and up-keep before the transfer request is approved. Those units that have estimated damages beyond wear and tear will be charged for those damages.
5. If the unit vacated tests positive for drug use, see Drug Policy
6. Transfer request by Lessee:
Justification for a transfer shall include one of the following reasons:
 - a. Medical
 - b. Employment
 - c. Change in family

All requests for transfers will be considered based on existing circumstances.

CHAPTER 8 TERMINATION

Section 8.1 Termination

TMHA has the right to automatically terminate the lease for failure to comply with any TMHA Policies.

CHAPTER 9 MEETINGS

Section 9.1 Meetings

Meetings requested with the Executive Director and/or TMHA staff must be submitted in writing. Once received, the Executive Director and/or TMHA staff will have up to three (3) days in which to respond.

1. See Affidavit of Confidentiality.
2. The right to a formal hearing before the TDHE Board. The right to attend the hearing and be represented by ONE (1) person of his or her choice, Lessee, must be physically present. Written request for your representative must be submitted five (5) days before the regular meeting date. Representative cannot be a TMHA employee or a TDHE Board member.
3. The right to have others make statements on his or her behalf. This request must be submitted in writing before any correspondence is received or given out. No correspondence shall be given to the Lessee and/or his/her representative, which is from a third-party entity, i.e., police departments, sheriff office, etc., which could jeopardize the outcome of his/her case, should a court case be ongoing.
4. Power of Attorney shall only be accepted for medical or mental incompetence, valid only with documentation from a licensed physician. However, the Power of Attorney shall only be valid for the length of specific violations, but not to exceed six (6) months.

CHAPTER 10 COURT FILING FEE

Section 10.1 Court Filing Fee

1. The TMHA reserves the right to seek reimbursement by the filing of a Civil Complaint for failure on the Lessee's part to cure any and all defaults in the lease.
2. Upon the Lessee's failure to comply with the Notice of Termination and Notice to Vacate, the TMHA shall file a civil action for eviction in a court of competent jurisdiction for the:
3. The court hearing can be stopped if the Lessee pays total amount due to TMHA, including past due, delinquent, court filing fees, and current charges prior to the date of the scheduled hearing.

INDIAN COUNTRY CRIMINAL JURISDICTIONAL CHART

For crimes committed within Indian Country as defined by 18 U.S.C. &1151(a), (b) & (c) – (a) reservations [tribal trust lands] (including rights-of-way roads), (b) dependent Indian communities, and (c) Indian allotments held in trust (including rights-of-way/roads).

INDIAN OFFENDER:

1. VICTIM CRIMES: FOR OFFENSES AGAINST A VICTIM'S PERSON OR PROPERTY

WHO IS THE VICTIM?	WHAT WAS THE CRIME?	JURISDICTION
INDIAN (enrolled or recognized as Indian by a government entity <u>and</u> possessing some degree of Indian blood)	Major Crimes Act crimes: Murder, manslaughter, kidnapping, maiming, sexual abuse under Ch. 109-A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault on a person less than 16 years old, felony child abuse or neglect, arson, burglary, robbery, theft under 18 U.S.C. &661 (Authority: 18 U.S.C. &1153)	FEDERAL
	All remaining crimes contained in tribal code: (Authority: tribal code or 25 CFR Pt. 11, if CFR Court)	TRIBAL
NON-INDIAN	Major Crimes Act crimes: Murder, manslaughter, kidnapping, maiming, sexual abuse under Ch. 109-A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault on a person less than 16 years old, felony child abuse or neglect, arson, burglary, robbery, theft under 18 U.S.C. 661 (Authority: 18 U.S.C. 1153).	FEDERAL
	Other federal crimes (unless tribe has punished Indian defendant), including crimes contained in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act: (Authority: 18 U.S.C 1152 and 13)	FEDERAL
	All remaining crimes contained in tribal code: (Authority: tribal code or 25CFR Pt. 11 if CFR Court)	TRIBAL

2. VICTIMLESS CRIMES: NO VICTIM'S PERSON OR PROPERTY INVOLVED IN CRIME

(e.g. traffic offenses, disorderly conduct, prostitution, etc.)

a. Crimes in state code (where there is no federal statute for the category of offenses) under the Assimilative Crimes Act (Authority: 18 U.S.C. &&1152 and 13)	FEDERAL
B. Crimes in tribal code: (Authority: tribal code or 25 CFR Pt. 11, if no tribal code)	TRIBAL

3. GENERAL FEDERAL CRIMES: OTHER FEDERAL CRIMES OF GENERAL APPLICABILITY

FEDERAL

(Federal prosecution and based solely on territorial jurisdiction)

(e.g. drug offenses, bank robbery, felon in possession of firearm, mail fraud, embezzlement or theft from tribal organization, theft from casino, failure to report child abuse, etc.)

(Authority: individual federal statute)

NON-INDIAN OFFENDER

1. VICTIM CRIMES: AN OFFENSE AGAINST A VICTIM’S PERSON OR PROPERTY

WHO IS THE VICTIM?	WHAT WAS THE CRIME?	JURISDICTION
INDIAN (enrolled or recognized as Indian by a government entity <i>and</i> possessing some degree of Indian blood)	Indian Country Crimes Act Crimes: All federal crimes which apply to the “special maritime and territorial jurisdiction of the United States under the U.S. Code.” (Authority: 18 U.S.C. 1152)	FEDERAL
	All remaining crimes contained in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act. (Authority: 18 U.S.C. 1152 & 13)	FEDERAL
NON-INDIAN	All crimes contained in state code: (Authority: United States v. McBratney 104 U.S. 621 (1881))	STATE

2. VICTIMLESS CRIMES: NO VICTIM’S PERSON OR PROPERTY INVOLVED IN CRIME **STATE ONLY**
 (e.g. traffic offenses, disorderly conduct, prostitution, etc.)

3. GENERAL FEDERAL CRIMES: OTHER FEDERAL CRIMES OF GENERAL APPLICABILITY **FEDERAL**
(Federal prosecution not based solely on territorial jurisdiction)
 (e.g. drug offenses, bank robbery, felon in possession of firearm, mail fraud, embezzlement or theft from tribal organization, theft from tribal gaming facility, failure to report child abuse, etc.)
 (Authority: individual federal statute)

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December 2010 version

Definitions

CFR TITLE 21 – INDIANS

Subpart D – Criminal Offenses

11.400 Assault.

(a) A person is guilty of assault if he or she:

- (1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or
- (2) Negligently causes bodily injury to another with a deadly weapon; or
- (3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

(b) Assault is a misdemeanor unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty misdemeanor.

11.401 Recklessly endangering another person.

A person commits a misdemeanor if he or she recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury. Recklessness and danger shall be presumed where a person knowingly points a firearm at or in the direction of another person, whether or not the actor believed the firearm to be loaded.

[58 FR 54413, Oct. 21, 1993; 58 FR 58729, Nov. 3, 1993]

11.402 Terroristic threats.

A person is guilty of a misdemeanor if he or she threatens to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation, or otherwise to cause serious public inconvenience or in reckless disregard of the risk of causing such terror or inconvenience.

11.403 Unlawful restraint.

A person commits a misdemeanor if he or she knowingly:

- (a) Restrains another unlawfully in circumstances exposing him or her to risk of serious bodily injury; or
- (b) Holds another in a condition of involuntary servitude.

11.404 False Imprisonment.

A person commits a misdemeanor if he or she knowingly restrains another unlawfully so as to interfere substantially with his or her liberty.

11.405 Interference with custody.

(a) *Custody of children.* A person commits a misdemeanor if he or she knowingly or recklessly takes or entices any child under the age of 18 from the custody of his or her parent, guardian or other lawful custodian when he or she has no privilege to do so.

(b) *Custody of committed person.* A person is guilty of a misdemeanor if he or she knowingly or recklessly takes or entices any committed person away from lawful custody when he or she does not have the privilege to do so. Committed person means, in addition to anyone committed under judicial warrant, any orphan, neglected or delinquent child, mentally defective or insane person, or other dependent or incompetent person entrusted to another's custody by or through a recognized social agency or otherwise by authority of law.

11.406 Criminal coercion.

(a) A person is guilty of criminal coercion if, with purpose to unlawfully restrict another's freedom of action to his or her detriment, he or she threatens to:

- (1) Commit any criminal offense; or
- (2) Accuse anyone of a criminal offense; or
- (3) Take or withhold action as an official, or cause an official to take or withhold action.

(b) Criminal coercion is classified as a misdemeanor.

11.407 Sexual assault.

(a) A person who has sexual contact with another person not his or her spouse, or causes such other person to have sexual contact with him or her, is guilty of sexual assault as a misdemeanor, if:

- (1) He or she knows that the conduct is offensive to the other person; or
- (2) He or she knows that the other person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct; or
- (3) He or she knows that the other person is unaware that a sexual act is being committed; or
- (4) The other person is less than 10 years old; or
- (5) He or she has substantially impaired the other person's power to appraise or control his or her conduct by administering or employing without the other's knowledge drugs, intoxicants or other means for the purpose of preventing resistance; or

(6) The other person is less than 16 years old and the actor is at least four years older than the other person; or

(7) The other person is less than 21 years old and the actor is his or her guardian or otherwise responsible for general supervision of his or her welfare; or

(8) The other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him or her.

(b) Sexual contact is any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, or for the purpose of abusing, humiliating, harassing, or degrading the victim.

11.408 Indecent exposure.

A person commits a misdemeanor if he or she exposes his or her genitals under circumstances in which he or she knows his or her conduct is likely to cause affront or alarm.

11.409 Reckless burning or exploding.

A person commits a misdemeanor if he or she purposely starts a fire or causes an explosion, whether on his or her property or another's, and thereby recklessly:

(a) Places another person in danger of death or bodily injury; or

(b) Places a building or occupied structure of another in danger of damage or destruction.

11.410 Criminal mischief.

(a) A person is guilty of criminal mischief if he or she:

(1) Damages tangible property of another purposely, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means; or

(2) Purposely or recklessly tampers with tangible property of another so as to endanger person or property, or

(3) Purposely or recklessly causes another to suffer pecuniary loss by deception or threat.

(b) Criminal mischief is a misdemeanor if the actor purposely causes pecuniary loss in excess of \$100, or a petty misdemeanor if he or she purposely or recklessly causes pecuniary loss in excess of \$25. Otherwise, criminal mischief is a violation.

11.411 Criminal trespass.

(a) A person commits an offense if, knowing that he or she is not licensed or privileged to do so, he or she enters or surreptitiously remains in any building or occupied structure. An offense under this subsection is a misdemeanor if it is committed in a dwelling at night. Otherwise it is a petty misdemeanor.

(b) A person commits an offense if knowing that he or she is not licensed or privileged to do so, he or she enters or remains in any place as to which notice against trespass is given by:

- (1) Actual communication to the actor; or
- (2) Posing in a manner prescribed by or reasonably likely to come to the attention of intruders; or
- (3) Fencing or other enclosure manifestly designed to exclude intruders.

(c) An offense under this section constitutes a petty misdemeanor if the offender defies an order to leave personally communicated to him or her by the owner of the premises or other authorized person. Otherwise it is a violation.

11.412 Theft.

A person who, without permission of the owner, shall take, shoplift, possess or exercise unlawful control over movable property not his or her own or under his or her control with the purpose to deprive the owner thereof or who unlawfully transfers immovable property of another or any interest therein with the purpose to benefit himself or herself or another not entitled thereto shall be guilty of theft, a misdemeanor.

11:413 Receiving stolen property.

A person is guilty of receiving stolen property, a misdemeanor, if he or she purposely receives, retains, or disposes of movable property of another knowing that it has been stolen, or believing that it has probably been stolen, unless the property is received, retained, or disposed with purpose to restore it to the owner. Receiving means acquiring possession, control or title, or lending on the security of the property.

11.414 Embezzlement.

A person who shall, having lawful custody of property not his or her own, appropriate the same to his or her own use, with intent to deprive the owner thereof, shall be guilty of embezzlement, a misdemeanor.

11.415 Fraud.

A person who shall by willful misrepresentation or deceit, or by false interpreting, or by the use of false weights or measures obtain any money or other property, shall be guilty of fraud, a misdemeanor.

11.416 Forgery.

(a) A person is guilty of forgery, a misdemeanor, if, with purpose to defraud or injure anyone, or with knowledge that he or she is facilitating fraud or injury to be perpetrated by anyone, he or she:

- (1) Alters, makes, completes, authenticates, issues or transfers any writing of another without his or her authority; or
- (2) Utters any writing which he or she knows to be forged in a manner above specified.

(b) "Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification.

11.417 Extortion.

A person who shall willfully by making false charges against another person or by any other means whatsoever, extort or attempt to extort an moneys, goods, property, or anything else of any value, shall be guilty of extortion, a misdemeanor.

11.418 Misbranding.

A person who shall knowingly and willfully misbrand or alter any brand or mark on any livestock of another person, shall be guilty of a misdemeanor.

11.419 Unauthorized use of automobiles and other vehicles.

A person commits a misdemeanor if he or she operates another person's automobile, airplane, motorcycle, motorboat, or other motor propelled vehicle without consent of the owner. It is an affirmative defense to prosecution under this section that the actor reasonably believed that the owner would have consented to the operation had he or she know of it.

11.421 Bad checks.

(a) A person who issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee, commits a misdemeanor.

(b) For the purposes of this section, an issuer is presumed to know that the check or order would not be paid, if:

- (1) The issuer had not account with the drawee at the time the check or order was issued; or
- (2) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

11.422 Unauthorized use of credit cards.

(a) A person commits a misdemeanor if he or she uses a credit card for the purpose of obtaining property or services with knowledge that:

- (1) The card is stolen or forged; or
- (2) The card has been revoked or cancelled; or
- (3) For any other reason his or her use of the card is unauthorized by the issuer.

(b) Credit card means a writing or other evidence of an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

11.423 Defrauding secured creditors.

A person commits a misdemeanor if he or she destroys, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with purpose to hinder that interest.

11.424 Neglect of children.

(a) A parent, guardian, or other person supervising the welfare of a child under 18 commits a misdemeanor if he or she knowingly endangers the child's welfare by violating a duty of care, protection or support.

(b) A parent, guardian, or other person supervising the welfare of a child under 18 commits a violation if he or she neglects or refuses to send the child to school.

11.426 Bribery.

(a) A person is guilty of bribery, a misdemeanor, if he or she offers, confers or agrees to confer upon another, or solicits, accepts or agrees to accept from another:

(1) Any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official or voter; or

(2) Any benefit as consideration for the recipient's decision, vote, recommendation or other exercise of official discretion in a judicial or administrative proceeding; or

(3) Any benefit as consideration for a violation of a known legal duty as a public servant or party official.

(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way, whether because he or she had not yet assumed office, or lacked jurisdiction, or for any other reason.

11.432 Impersonating a public servant.

A person commits a misdemeanor if he or she falsely pretends to hold a position in the public service with purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his or her prejudice.

11.436 Escape.

A person is guilty of the offense of escape, a misdemeanor, if he or she unlawfully removes himself or herself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited period.

11.443 Harassment.

A person commits a petty misdemeanor if, with purpose to harass another, he or she:

(a) Makes a telephone call without purpose or legitimate communication, or

- (b) Insults, taunts or challenges another in a manner likely to provoke violent or disorderly response; or
- (c) Makes repeated communications anonymously or at extremely inconvenient hours, or in offensively coarse language; or
- (d) Subjects another to an offensive touching; or
- (e) Engages in any other course of alarming conduct serving no legitimate purpose.

11.444 Carrying concealed weapons.

A person who goes about in public places armed with a dangerous weapon concealed upon his or her person is guilty of a misdemeanor unless he or she has a permit to do so signed by a magistrate of the Court of Indian Offenses.

11.446 Cruelty to animals.

A person commits a misdemeanor if he or she purposely or recklessly:

- (a) Subjects any animal in his or her custody to cruel neglect; or
- (b) Subjects any animal to cruel mistreatment; or
- (c) Kills or injures any animal belonging to another without legal privileges or consent of the owner.
- (d) Causes an animal to fight with another.

11.449 Violation of an approved tribal ordinance.

A person who violates the terms of any tribal ordinance duly enacted by the governing body of the tribe occupying the Indian country under the jurisdiction of the Court of Indian Offenses and approved by the Assistant Secretary – Indian Affairs or his or her designee, is guilty of an offense and upon conviction thereof shall be sentenced as provided in the ordinance.

11.454 Domestic Violence.

- (a) A person who commits domestic violence by inflicting physical harm, bodily injury, or sexual assault, or inflicting the fear of imminent physical harm, bodily injury, or sexual assault on a family member, is guilty of a misdemeanor.
- (b) for purposes of this section, a family member is any of the following:
 - (1) A spouse;
 - (2) A former spouse;
 - (3) A person related by blood;

- (4) A person related by existing or prior marriage;
- (5) A person who resides or resided with the defendant;
- (6) A person with whom the defendant has a child in common; or
- (7) A person with who the defendant is or was in a dating or intimate relationship.

[73 FR39361 July 11, 2008]

