

# TE-MOAK TRIBE OF WESTERN SHOSHONE HOUSING AUTHORITY

## MUTUAL HELP ADMISSIONS AND OCCUPANCY POLICY

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### Te-Moak Housing Authority

It is the hope and goal of the Te-Moak Housing Authority's (also known as TMHA or Lessor throughout this policy) Tribally Designated Housing Entity (TDHE) Board that all tenants and all homebuyers fully comply with the terms and conditions of their Mutual Help Occupancy Agreement. This Housing Authority 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 housing authority 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

#### 1-1 Objectives (NAHASDA, Subpart B-201)

It is the policy of Te-Moak Housing Authority:

- a. To assist and promote affordable housing activities 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;
- b. 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;
- c. 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;
- d. To plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and

- e. 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**

### **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 new 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 housing authority's units.

### **2-2 Eligibility for Admission**

In order to apply for admission to the HUD-aided mutual help homes operated by TMHA applicants must:

- a. Be an enrolled member of the Te-Moak Tribe of Western Shoshone;
- b. Qualify as a Family (*Revised 11/17/05, 05-TMHA-47*). 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).
    - i. If single parent or child(ren) has not been living with parent(s) they must have legal or court documentation showing physical custody of child(ren).
    - ii. The Custody of a child shall be claimed by only one parent to qualify as eligible as a TMHA applicant or participant. If parents or custodians have joint custody TMHA will only authorize one unit per child named.
    - iii. If you are eligible a TMHA program participant through custody of one child, additional children may be added to household composition without proof of custody.
  - 2. A married couple. A marriage certificate is required.
  - 3. Siblings shall be a brother and a sister, two brothers, or two sisters.
    - i. Certification must be obtained that once a home is provided they will reside together up to one (1) year. If one of the siblings is a minor, the non-minor sibling will need to show legal documentation of guardianship or custody of the minor sibling.

Should only one sibling reside in the unit prior to the one (1) year, they shall be subject to eviction under the assumption 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.

4. An elderly head of household (62 years or older is considered to be an elderly) living with spouse or adult sibling(s) that is essential to their care or well-being.
  - i. 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 under the assumption 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.
5. A disabled family member living with spouse or adult sibling(s) that is essential to their care or well-being.
  - i. 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 under the assumption 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.
6. Other combinations is defined as a family as long as the family consists of a minimum of two of the following family members Aunts, Uncles, Grandparents, Nieces, and Nephews.
  - i. Certification must be obtained that once a home is provided they will reside together up to one (1) year. If one of the family members is a minor, the non-minor family member will need to show legal documentation of guardianship or custody of the minor family member(s). Should only one family member reside in the unit prior to the one (1) year, they shall be subject to eviction under the assumption 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.
- c. Have an annual family income, which does not exceed the applicable income limit for admission.

1. The Families annual income is determined at move-in. The income level at recertification does not affect eligibility. Hence, if a family is initially eligible upon application and move-in, and through recertification it is found that they are above applicable income limits, the family remains in occupancy but will pay a higher homebuyer payment based on their increased ability to pay.
2. Presently residing in and/or working in Elko or Lander County. *(Revised 01/30/06, 06-TMHA-31)*
3. Homebuyer must have consistent year round visible income (must show proof) from all sources for each member in the household, as determined in accordance with criteria described by the Secretary of Housing and Urban Development. Income from Welfare, Indian General Assistance (IGA), TANF, or child support, etc. are not considered visible income as these are considered income assistance.
  - a. Definition of income
    - i. Full Time: Year around permanent employment or income or six (6) months or more employment or income.
    - ii. Chapter 7, 7-5 Interim Redetermination of Family Income and Adjustment of Monthly Payment b. Seasonal workers will need to report unemployment, re-employment, and changes in employers; however, since payments are based on annual income and derived from previous years income tax records, payments may remain the same.
  - d. Be 18 years of age or older.
  - e. Provide all requested information for each member of the household and sign the required forms.
  - f. 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 become available, based on the geographical preference. They cannot be considered for a larger three or four bedroom unit. *(Addition on 09/17/98 by BOC)*
  - g. 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 on 09/17/98 by BOC)*

## 2-3 Eligibility for Continued Occupancy

In order to be eligible for continued occupancy in the HUD-aided housing units operated by TMHA the occupants must:

- a. Be an authorized member(s) of the family;
- b. Provide all required information at annual re-examinations within a 60-day period:
  - i. Annual Recertification for all household members.
  - ii. Release of information and Certification Page must be signed by all members of the household that are 18 years of age and older.
- c. Not have engaged in any criminal activity, alcohol and drug abuse, domestic violence, or violent behavior, misuse of firearms, or disturbances on or near the premises. This also applies to any member of the participant's household, or guest or other person under the participant's control.
  - i. If TMHA has substantial relevant and admissible evidence that a homebuyer, homebuyer's guest, or person under homebuyer's control was in possession of a controlled substance in the homebuyer unit shall be grounds for Termination of the MHOA. Arrest for such activity, and confiscations of drugs (that drug test swab – POSITIVE) and /or drug related paraphernalia is deemed sufficient grounds for TERMINATION OF MHOA. A Criminal Conviction, in a Court of Law, does not have to take place prior to the Termination of MHOA.
  - ii. Criminal activity also includes the Aiding and Abetting and the Harboring of Fugitives.
  - iii. TMHA shall deliver the homebuyer a two (2) day notice; whether hand delivered or written to complete a drug test swab.
- d. TMHA recognizes that Household Drug Pollution may cause serious health problems for its tenants. Therefore, in an attempt to protect our tenants from Household Drug Pollution, TMHA reserves the right to test a home prior to, during, and/or after tenant occupancy. TMHA reserve the right to test a home if reasonable suspicion exists which indicates that drugs are currently being used, sold, or manufactured in a home.
- e. TMHA is hereby adopting zero tolerance, if the Structural Narcotics test swab shows a positive result this will be grounds for immediate termination of the MHOA. If occupant(s) does not vacate the premises within five (5) days, TMHA shall file a Civil Complaint for criminal trespass.
- f. Take every care to prevent fire, household drug pollution, not to keep gasoline,

solvent, or other combustible, toxic contaminated materials or substances in the unit, and to exercise particular caution with respect to children playing with matches. If the unit is damaged:

- i. Occupant(s) shall immediately notify Lessor of the damage.
  - ii. Occupant(s) shall be responsible for repair of the unit within a reasonable time. If the damage is caused by Tenant, members of the household or guest, Tenant shall pay the cost(s) of the repair.
- g. All Mutual Help tenants will pay a basic admin fee of \$85.00 (subject to change as conditions require.)
- h. Have a current account.
- i. Have complied with annual inspection requirements.
- j. Have verified income for at least six (6) months out of the year.
- i. 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 MHOA.
- k. Must be in full compliance with the MHOA, the requirements of the federal regulations, and with the policies of the TMHA.
- l. Mutual Help Participants must not own another home. If it is verified by TMHA that they have ownership to another home, the MHOA with TMHA may be terminated.

### **CHAPTER 3 SELECTION OF PARTICIPANTS**

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

3-1 The size of the family, size of the unit, and the date of application shall determine placement.

#### 3-2 Non-Selection Criteria

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:

- a. Does not have the ability to meet tenant obligations. In a Mutual Help home this includes ability to provide for the required mutual help contribution pay, own

utilities, pay the administration charge, and to perform or provide the required maintenance and repairs.

- b. Must not have leased land (assignment) or home in any other constituent band area. *(Revised 10/21/04, Resolution 04-TMHA-35)* Has ownership of a home.
- c. Has previously abandoned or been evicted from a HUD assisted home operated by this or any other housing authority within the past five (5) years. After five (5) years of the abandonment or eviction the TDHE Board may decide to select an applicant on a case-by-case basis. *(Revised 10/21/04, Resolution 04-TMHA-35)*
- d. Owes debt incurred from prior occupancy of a HUD assisted home at this or any other housing authority;
- e. Was evicted for non-compliance with the provisions of the MHOA other than drug activity; however the applicant 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 this housing authority 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.
- f. Has been convicted of a felony sex offense. This includes any person listed on the application. *(Amended: July 15, 2010 / Resolution 10-TMHA-62).*
  - 1) 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:
    - Rape
    - Sodomy
    - Prostitution
    - Carnal Abuse
    - Child Molestation
    - Indecent Exposure
    - Impairing the Morals of a Minor
    - Similar Crime Indication a Sexual Deviation
- g. Has a history of drug use or drug related criminal activity including any record of illegal manufacturing, sale or distribution, or possession with intent to manufacture, sell, distribute or use of a controlled substance, or a history of any behavior or activities which could adversely affect the neighborhood.

Applicants or Participants who are confirmed to have a Drug / Alcohol Addiction / Abuse problem shall be permanently denied access to any type of Housing Assistance program managed by the TMHA. This would be based on evidence that confirms drug / alcohol addiction / abuse. For example:

- 1) A record of conviction for possession or use of methamphetamine, heroin, narcotics and/or other controlled substances;
- 2) A record of conviction for activity relating to the misuse of alcohol;
- 3) Written reports from a probation officer, a recognized public social agency, etc.

The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use of a controlled substance (as such term is defined in Section 102 of the Controlled substance Act.)

The term "addict" means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his / her addiction.

The term "narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

**Exceptions:** In cases where the individual has undergone follow-up treatment by a professional agency, they may be considered for participation within the TMHA program after a period of three (3) years has elapsed.

- 1) Such agency must confirm, in writing that said individual is rehabilitated and has not been involved in any further drug/alcohol misuse.
- 2) The three (3) year period is calculated based on the most recent date of conviction.

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 applicants 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 tenants or their peaceful occupancy of the premises.



**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 any State, Federal or Tribal definitions of Violent Crimes. See Appendixes 1 and 2.**

If after a period of three (3) 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 Housing Authority meeting and a decision concluded by the TDHE.

The three (3) year period is calculated based on the most recent date of conviction.

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

Applicants who are determined to be habitual criminals shall be permanently ineligible for any type of Housing Assistance program managed by the TMHA.

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.

While individually, the crimes on the individual’s record may NOT warrant REJECTION, collectively they would.

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 tenants or the other tenant’s enjoyment and peaceful occupancy of the premises.

- h. 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 TMHA’s Grievance Policy and will have the opportunity to plead their case with the TDHE Board.

3-3 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 housing authority 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:

- a. Time, nature, and extent to the applicant's habits and practices in regards to:
  - i. 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.
- b. The reports shall also include an evaluation of factors, which indicate a probability of favorable future conduct of financial prospects, such as:
  - i. 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.
  - ii. The information obtained from verification is evaluated and can be a determining factor in the housing authority's selection procedures. Negative reports and/or information can affect an applicant's ability to obtain a home.

#### **CHAPTER 4 OCCUPANCY STANDARDS**

4-1 To avoid overcrowding and prevent waste of space, homes shall be assigned in accordance with the occupancy standards set forth below.

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

4-2 Occupancy with Respect to Persons of Opposite Sex

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.

4-3 Homes will be assigned so as not to require use of the living room for sleeping purposes.

4-4 Every family member regardless of age is to be counted as a person.

4-5 Young families may be assigned a larger unit, if appropriate, in anticipation of additional children.

4-6 Verification and Documentation of Applicant and Participant Data

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

- a. Letters or other statements from employers and other pertinent sources giving authoritative information concerning all amounts of income, income tax forms may be required;
- b. Photo static of carbon copies of documents in the applicant's possession which substantiate his/her statements, or brief summary of the pertinent contents of such documents signed and dated by the staff member who viewed them;
- c. 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;
- d. Memoranda of verification data obtained by personal interview, telephone, or other means, with source, date reviewed, and the person receiving the information clearly indicated;

The staff member must verify all information delivered to the housing authority directly by the applicant.

4-7 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 or participant 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:

- a. Eligibility of the applicant or participant as a family;

- b. Eligibility of the family with respect to income limits for admission;
- c. Size of unit to which the family should be assigned; and
- d. Monthly payment, which the family is to pay.
- e. The submittal of false information or the refusal to submit information required under this subpart shall be sufficient cause for TMHA to revoke existing MHOA 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 housing authority, a designated staff member is to complete and sign the eligibility certifications on the admission review sheet.

## **CHAPTER 5 QUALIFY OR NON-QUALIFYING CRITERIA AND PROCESS**

### **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 housing authority 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:

- a. 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.
- b. A copy of the Housing Authority waiting list requirements (Chapter 6).
- c. 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.
- d. A statement that the family's eligibility shall be subject to verification at the time a home becomes available.

### **5-2 Disqualification of a Selected Family**

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

- a. No longer qualifies as a family due to change(s) in household composition.
- b. TMHA acquires knowledge of a drug and/or alcohol abuse, which could be considered detrimental to a neighborhood.

- c. TMHA acquires knowledge of domestic violence or violent behavior(s), which could be considered detrimental to a neighborhood.
- d. Income inadequate or non-qualifying for a mutual help program.
- e. TMHA acquires information indicating the family falls under the non-selection criteria.

If a family, which previously qualified, is determined to be ineligible, the housing authority is to notify the family in writing. The notification should state the specific reason(s) for disqualification and inform the applicant 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 eligible for the program. The notification should also inform the applicant of appeal procedures available to them. Once an applicant has been disqualified, they shall be removed from the waiting list by resolution at a TDHE Board meeting, except as stated in section 6-3.

#### 5-3 Re-Qualifying for the Waiting List

If an applicant, who was removed from the list, should meet the requirement to re-qualify, they will again be placed on the waiting list. The date the applicant re-qualified will be used as the application date and they will be placed on the waiting list according to the date of re-qualification.

#### 5-4 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 10 days to accept or refuse the home. If the home is accepted, the applicant has 15 days to transfer and/or turn on all utilities (electricity, gas, water). The applicant will be charged rent upon move-in or at the end of the 15-day period, whichever comes first or as stated in the agreement.

#### 5-5 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. This replacement will be done by a Resolution at a TDHE Board meeting.

## **CHAPTER 6 WAITING LIST REQUIREMENTS**

#### 6-1 Maintaining Separate Waiting Lists

The housing authority will maintain separate waiting lists for its mutual help and rental homes. An applicant may qualify, be approved, and be listed on both lists. Geographical

preference as established by the Bands will determine an applicant's place on the waiting list, in accordance to Resolution 09-TMHA-35. If an applicant is on one waiting list and wishes to be placed on another, he/she will again have to submit an application for approval. If approved, the date of this approval will be the date used for selection along with the other criteria listed in Chapter 6-3.

This housing authority will also maintain separate waiting lists for the following areas:

a. Elko – (*Resolution No. 2009-EBC-17*)

- i. Must be 18 years of age or older and raised on the Elko Indian Colony.
- ii. Must be registered with the Enrollment as a member of the Elko Band for no less than three years prior to receiving a home.
- iii. Must not have leased land, a land assignment, or a home in any other constituent band area.

b. South Fork

c. Wells

d. Battle Mountain

- i. Waiting list for all constituent band areas require the applicant; be registered with the Enrollment Department as a member of the Te-Moak Tribe of the Western Shoshone Indians of Nevada for no less than three (3) years prior to receiving a home. Must not have a home in any other constituent band area, or record of any homeownership anywhere.

Applicants may qualify, be approved, and be listed on more than one area list. If an applicant is currently on one list and wishes to be placed on another list, he/she must apply for the second area and the date of application approval is the date that will be used for selection for the second area.

An applicant could be approved for one area, and denied for another if it is decided that the second area might not be appropriate, safe, and/or sanitary for that applicant. If it is decided that an area is not suitable for an applicant, the applicant will be provided with a reason or reasons for the decision and advised on possible changes necessary to qualify and/or how to appeal the decision [Ref. Grievance Policy, Article V – VI, Page 4 of 4-this section only applicable to new applicants] the decision.

## 6.2 Required Information for a Waiting List

Each waiting list shall be updated at a regularly scheduled interview and must include the following information on each and every applicant and/or family and/or household member listed:

- a. Name of the applicant;

- b. Number in applicant's family;
- c. Size of the unit qualified for; and
- d. Date of application approval.

If because of the required follow up re-examinations, the above information on an applicant should be crossed out, and the correct information typed in. The date the information was supplied and by whom should be noted. In addition, the person making the changes should be identified. All changes are to be verified.

**6-3 Required Waiting List Updates**

The waiting list will be updated monthly, adding names of approved applicants, making necessary information changes, and removing the names of applicants who are no longer interested. Names of participants who are no longer qualified because of income guidelines are to remain on the list, as their circumstances could change and again make them eligible.

- a. The Waiting List posted for Public will not list personal information.
- b. The applicants will be identified by application number.

**6-4 Applicant's Responsibility for Providing Information**

A participant is responsible for providing this housing authority with information pertaining to any changes in family composition or family income. The income or composition changes that must be reported are the same as listed in Chapter 7-4, a and b, after being placed on the waiting list, TMHA will contact the applicant at 6-month intervals to update information and confirm the applicant wishes to remain on the list.

- a. This will be done through certified mail to last reported mailing address.

**6-5 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  
EXAMINATION AND RECERTIFICATION OF FAMILY INCOME**

**7-1 Purpose of Examinations and Recertification's**

TMHA shall examine the participant's family earnings and other income prior to initial occupancy and shall conduct recertification's thereafter at least once a year for the purpose of determining eligibility for a MHO Agreement, and for making adjustments in the amount so determined as stated in Section 1000.128 of NAHASDA.

## 7-2 Recertification Schedule

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

- a. 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 housing authority.

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

## 7-3 Recertification 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.

## 7-4 Annual Recertification: Receipt of Application for Continued Occupancy and Authorization for Release of Information, and Certification Page

- a. Each participant shall be required to complete an annual recertification's 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 housing authority. Changes or corrections are to be initialed and dated by the person making such changes.
- b. 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 housing authority will process the required certification.
- c. Every adult (age 18 and older) in the participant's household will be required to sign the Authorization for Release of Information and the Certification Page these documents will be used in the verification of employment and work history and criminal history information required by the housing authority.

## 7-5 Interim Redetermination of Family Income and Adjustment of Monthly Payment

No adjustment of monthly payments are to be effected between the dates of annual recertification (as set forth in 7-1 and 7-2 above) except as provided in paragraphs a and b below:

- a. 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.

- b. Participants must report increases or decrease in income, including the loss or addition of principal income recipients 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.
- c. Failure to report changes in income can result in retroactive payments and/or eviction.
- d. Monthly payments for Mutual Help tenants will not exceed thirty percent (30%) of the adjusted family income.

#### **7-6 Increase or Decreases in Monthly Payments**

- a. 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.
- b. 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.
- c. Monthly payments for Mutual Help tenants will not exceed thirty percent (30%) of the adjusted family income.

#### **7-7 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 recertification's and interim recertification's. Verification procedures are the same as those shown in Chapter 4-5 and 4-6.

#### **7-8 Action Required Following Re-Examination**

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

- a. Any changes to be made to the required monthly payment and the date the changes become effective;
- b. Any instances of misrepresentation or non-compliance with their homebuyer agreement, other HUD rules and/or regulations or housing authority policies, and any corrective or necessary action which is to be taken as a result of the misrepresentation or non-compliance; and
- c. 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.

**7-9 Failure to Comply with Annual and Interim Recertification**

Failure to provide the information and/or documents requested and/or required for recertification 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 housing authority 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 the housing authority's Collection and Compliance Policy.

**7-10 Counseling Requirements**

- a. All participants will attend counseling session offered by the housing authority in financial literacy, maintenance, budgeting, etc.
- b. If participants do not attend required counseling sessions this may be a cause for eviction.
- c. After the family has moved in and at any time the homebuyer becomes unemployed or is unable to report any visible source of income to the household. The household occupants must attend all counseling and workshop in the area

which they reside. Counseling sessions may be required at the Client Service Counselors or TMHA discretion.

## **CHAPTER 8 ANNUAL INSPECTIONS**

- 8-1 All participants will comply with the annual inspection requirements as stated in their MHO Agreement and as required by Section 403 (b) of NAHASDA.
- a. Periodic Monitoring - Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this Act to assess compliance with the requirements of this Act. Such review shall include an appropriate level of onsite inspection of housing to determine compliance with applicable requirements.
- 8-2 Failure to comply with the annual inspection requirements will be subjected to the eviction process.
- a. A participant will have the opportunity to reschedule an inspection one time. If a participant is not present at the time of the rescheduled inspection, TMHA will follow the Collection and Compliance Policy and issue a NOTICE OF NON COMPLIANCE.

## **CHAPTER 9 TERMINATION**

9-1 Termination

TMHA has adopted a zero tolerance in this policy Chapter 2 CONDITIONS GOVERNING ELIGIBILITY 2-3 Eligibility for Continued Occupancy f. the Housing Authority shall have the right to automatically terminate the MHOA for any type of proved through court disposition, drug or criminal activity or other violations. Conditions imposed on to the homebuyer or any other member of the household which are not able to be brought into compliance in accordance to the Collection and Compliance Policy Section 5 C. Non-Compliance Process When There is no Foreseeable way to Become Compliant as written.

## **CHAPTER 10 MEETINGS**

10-1 Scheduled Meetings

Meetings that the tenant should request with the Executive Director and/or TMHA staff must be submitted in writing. Once the written request is received the Executive Director, and/or TMHA staff will have up to three (3) days in which to respond by correspondence.

- a. See Affidavit of Confidentiality.

- b. 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, homebuyer must be physically present. Written request from your representative must be submitted five (5) days before the regular meeting date. Representative cannot be a TMHA employee or a TDHE Board member.
- c. 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 homebuyer and/or his/her representative which is from a third party entity i.e. police departments, sheriff's office, etc. which could jeopardize the outcome of his/her case, should a court case be ongoing.
- d. 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.

#### Court Filing Fees

The TMHA reserves the right to seek reimbursement by the filing of a Civil Complaint for failure on the tenants part to cure any and all defaults in the lease.

Upon the tenant'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 Tribe. A. The court hearing can be stopped, if the tenant 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

<i>WHO IS THE VICTIM?</i>	<i>WHAT WAS THE CRIME?</i>	<i>JURISDICTION</i>
<b>INDIAN</b> (enrolled or recognized as Indian by a government entity <u>and</u> possessing some degree of Indian blood)	<b>Major Crimes Act crimes:</b> 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)	<b>FEDERAL</b>
	<b>All remaining crimes contained in tribal code:</b> (Authority: tribal code or 25 CFR Pt. 11, if CFR Court)	<b>TRIBAL</b>
<b>NON-INDIAN</b>	<b>Major Crimes Act crimes:</b> 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)	<b>FEDERAL</b>
	<b>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:</b> (Authority: 18 U.S.C. §§ 1152 and 13)	<b>FEDERAL</b>
	<b>All remaining crimes contained in tribal code:</b> (Authority: tribal code or 25 CFR Pt. 11, if CFR Court)	<b>TRIBAL</b>

### 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 offense) under the Assimilative Crimes Act. (Authority: 18 U.S.C. §§ 1152 and 13)	<b>FEDERAL</b>
b. Crimes in tribal code. (Authority: tribal code or 25 CFR Pt. 11, if no tribal code)	<b>TRIBAL</b>

### 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 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**

<b>WHO IS THE VICTIM?</b>	<b>WHAT WAS THE CRIME?</b>	<b>JURISDICTION</b>
<b>INDIAN</b> (enrolled or recognized as Indian by a government entity and possessing some degree of Indian blood)	<b>Indian Country Crimes Act Crimes:</b> 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)	<b>FEDERAL</b>
	<b>All remaining crimes contained in state code (where there is no federal statute for the category of offense) under the Assimilative Crimes Act.</b> (Authority: 18 U.S.C. §§ 1152 & 13)	<b>FEDERAL</b>
<b>NON-INDIAN</b>		<b>FEDERAL</b>

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

FEDERAL

**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)

created by Arvo Q. Mikkanen, Assistant U.S. Attorney, U.S. Attorney's Office, Western District of Oklahoma

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 54411, 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) Posting in a manner prescribed by law 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 any 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 known 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 no 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 privilege or consent of the owner.
- (d) Causes one 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.

[73 FR 39861, July 11, 2008]

**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 whom the defendant is or was in a dating or intimate relationship.

[73 FR 39861, July 11, 2008]