

**TE-MOAK TRIBE OF WESTERN SHOSHONE
HOUSING AUTHORITY**

504 Sunset Street Elko, Nevada 89801 • Email: tmhaos@citlink.net

Phone: (775) 738-9238 • Fax: (775) 738-2436

Application No: 2023 –

“The mission of the Te-Moak Housing Authority is to construct and maintain safe, affordable housing for eligible Te-Moak members.”

**TE-MOAK HOUSING AUTHORITY
HOUSING PROGRAM
APPLICATION PACKET**

Welcome to the Te-Moak Housing Authority.

Enclosed is the application packet for our HUD assisted, income-based housing programs.

We welcome you to apply for our Low-Rent and/or Mutual Help housing programs.

This housing authority is available to answer any questions or concerns you may have about our housing programs.

NEW APPLICANT CHECKLIST

Your housing application must be completely filled in, signed, and dated where indicated. The items below are also required when submitting your housing application to Te-Moak Housing Authority. If the following items are not submitted with the housing application, you will have ten (10) days in which to submit the requested information.

- 1. All household occupants who are eighteen (18) years of age and older are required to sign the Certification Page enclosed in the application.**
- 2. Each adult person(s) eighteen (18) years or age or older listed as part of the household composition is required to submit a birth certificate and two (2) forms of identification. Children under the age of 18 must have two (2) forms of identification, the following acceptable forms of identification may include; but not limited to: a driver's license, a state-issued ID card, a birth certificate, a tribal enrollment card, a student ID, or a social security card.**

The following listed items may also be required:

- 3. A marriage certificate, child support verification.**
- 4. Affidavit of custody for minor children who are your natural born child(ren). If you are NOT the parent of child(ren) you must provide Legal Court Guardianship Documents.**
- 5. Employment payroll stubs, benefit/award letters, disability verification, W-2 forms, and/or tax forms.**
- 6. Proof of disability or handicap.**
- 7. Documentation of U.S. citizenship will be required, if questionable.**

Please return application to:
TE-MOAK HOUSING AUTHORITY
 504 Sunset Street
 Elko, Nevada 89801
 Phone No.: (775) 738-9238
 Toll Free No.: (800) 957-2584
 FAX No.: (775) 738-2436

STAMPED DATE & TIME RECEIPT BY
 THE TE-MOAK HOUSING AUTHORITY

Application# 2022-1

Applicant's Name: _____

Phone No.: _____ Msg No.: _____

Current Physical Address: _____

Current Mailing Address: _____

SELECT TYPES OF HOUSING PROGRAM(S)	SELECT YOUR AREA OF INTEREST
<input type="checkbox"/> LOW - RENT	<input type="checkbox"/> Elko <input type="checkbox"/> Elko Elder Complex (62 years and older only)
<input type="checkbox"/> MUTUAL HELP	<input type="checkbox"/> Battle Mountain <input type="checkbox"/> South Fork <input type="checkbox"/> Wells

Have you or has any member of your immediate household ever had housing with ANY Indian Housing Authority? YES NO If yes, which one? _____

Physical address of previous HUD unit: _____

HOUSEHOLD COMPOSITION

NAME OF PERSON	SEX	RELATIONSHIP TO HEAD OF HOUSEHOLD	SOCIAL SECURITY NUMBER	DATE OF BIRTH	PLACE OF BIRTH
		HEAD			

Is any person listed on application 62 or older? Yes No If yes, please list the individual(s) and their age: _____

Are you currently enrolled with the Te-Moak Tribe of Western Shoshone Indians of Nevada? YES NO If yes, tribal enrollment number: _____

Past addresses for the past 10 years for all household members 18 years of age or older, if uncompleted application will be declined.

Name _____ Previous address & year _____

Name _____ Previous address & year _____

Name _____ Previous address & year _____

Name _____ Previous address & year _____

In the event of an emergency, and/or additional contact person, please list the following:

Name: _____ Phone No.: _____

Mailing Address: _____

Relationship to applicant: _____

MILITARY SERVICE

Has a member of your immediate household ever served or is currently serving in the armed forces? [] YES [] NO Relationship to head of household: _____

Branch of service: _____ Dates of service: Fr _____ To _____

Additional information: _____

SOCIAL HISTORY

Social (Criminal) History includes, but not limited to: Disturbing the peace, destroying private or public property, violent behavior, domestic violence, fraud, alcohol abuse, robbery, drug related offenses, offenses of a sexual nature, misuse of firearms, etc.

Have you ever been arrested and convicted for any offenses other than minor traffic violations? [] YES [] NO If yes, please list the type, dates, and disposition of charges: _____

ASSET INFORMATION

Assets include, but not limited to: recreational vehicles or boats (that are not used for daily transportation needs), stocks, bonds, mutual funds, livestock, property (deeds/titles), or leased land (assignments).

Do you have any assets? [] YES [] NO If yes, please list all assets below: _____

Do you now, or have you ever owned another home or dwelling? [] YES [] NO If yes, where is the home or dwelling located: _____

Have you ever sold a home or dwelling? [] YES [] NO If yes, to whom have you sold the home or dwelling to: _____

Are you listed on a home or dwelling deed or title? [] YES [] NO If yes, to whom are you listed with? _____

Do you have leased land (assignment) in any of the four band areas? [] YES [] NO If yes, where is it located: _____

CURRENT HOUSING STATUS

Total number of families residing in home: ____ Total number of persons residing in home: ____

This home has: [] Water [] Sewer • Number of bedrooms: ____

Is this home rented by you or an immediate member of your household? [] YES [] NO

If the home in which you now reside **DOES NOT** belong to you; to whom does it belong? (Name/Address) _____

CURRENT INCOME STATUS

List all sources of income, including the mailing address of the source of income, for all household members who are eighteen (18) years of age and older. NOTE: If unemployed, please mark where indicated. **** Please attach copies of payroll stubs for 3 months or direct deposits. ****

1. Head of Household: _____ Presently Unemployed: ____
Employer's Name/Source of Income: _____
Employer's Mailing Address: _____
Employer's Phone No.: _____
FT____ PT____ Amount: \$ _____ Hours worked per day/week: ____ / ____

2. Spouse/Significant Other: _____ Presently Unemployed: ____
Employer's Name/Source of Income: _____
Employer's Mailing Address: _____
Employer's Phone No.: _____
FT____ PT____ Amount: \$ _____ Hours worked per day/week: ____ / ____

3. Adult Household Member: _____ Presently Unemployed: ____
Employer's Name/Source of Income: _____
Employer's Mailing Address: _____
Employer's Phone No.: _____
FT____ PT____ Amount: \$ _____ Hours worked per day/week: ____ / ____

4. Adult Household Member: _____ Presently Unemployed: _____
 Employer's Name/Source of Income: _____
 Employer's Mailing Address: _____
 Employer's Phone No.: _____
 FT____ PT____ Amount: \$_____ Hours worked per day/week: ____ / ____

Do you foresee any income or household changes in the near future? [] YES [] NO If yes, please explain: _____

ADDITIONAL INCOME SOURCES

Do you receive any additional income from any of the following? List monthly amounts received below. ****Please attach copies of the award letter(s) or direct deposits.****

- [] Social Security Benefits \$ _____
- [] Supplemental Security Income \$ _____
- [] Disability Benefits \$ _____
- [] Pension/Retirement Funds \$ _____
- [] Veterans Service Benefits \$ _____
- [] Unemployment \$ _____
- [] Other \$ _____

Supplemental Income Assistance:

- [] Indian General Assistance (IGA) \$ _____
- [] Child Support \$ _____
- [] Welfare/TANF Benefits \$ _____

LANDLORD HISTORY

Please provide information for the last five (5) years. NOTE: Should there not be a Landlord History, if you have resided with parents or other family members, we require a LETTER OF RECOMMENDATION from the Head of Household where you currently reside.**

1. **Name of current Landlord:** _____
 Mailing Address for Landlord: _____
 Phone No.: _____ Length of occupancy: ____ Years ____ Months
 Monthly rent paid: \$ _____ Does rent include utilities? [] YES [] NO
 Have you ever been evicted from a housing unit? [] YES [] NO If yes, please explain:

2. **Name of most recent Landlord:** _____
 Mailing Address for Landlord: _____
 Phone No.: _____ Length of occupancy: ____ Years ____ Months
 Monthly rent paid: \$ _____ Does rent include utilities? [] YES [] NO
 Have you ever been evicted from a housing unit? [] YES [] NO If yes, please explain:

3. **Name of past Landlord:** _____
Mailing Address for Landlord: _____
Phone No.: _____ **Length of occupancy:** ___ Years ___ Months
Monthly rent paid: \$ _____ **Does rent include utilities?** [] YES [] NO
Have you ever been evicted from a housing unit? [] YES [] NO **If yes, please explain:**

(Landlord History continued)

4. **Name of past Landlord:** _____
Mailing Address for Landlord: _____
Phone No.: _____ **Length of occupancy:** ___ Years ___ Months
Monthly rent paid: \$ _____ **Does rent include utilities?** [] YES [] NO
Have you ever been evicted from a housing unit? [] YES [] NO **If yes, please explain:**

Please state your reason(s) for applying for our housing program, and briefly describe your present living arrangements in the area provided below: _____

Please list any questions or comments you may have in the area provided below, so they can be discussed with a Client Service Counselor at your convenience. _____

AFFIDAVIT OF CUSTODY

The undersigned makes the following statement a fact:

1. My full, true, and correct name is: _____
Mailing Address: _____
Phone Number: _____
2. I am the legal parent and primary provider, with a relationship of _____ to the child(ren) listed below: *(Family member or guardianship relationship)*
3. If the child(ren) is NOT your child, you must provide Legal Court Guardianship Documents.

Child(rens) Names:	Date of Birth:	Social Security #:	Tribal Enrollment #:

4. The other parent being [] father or [] mother ([] *absent father* or [] *absent mother*) of said children is: _____ who resides at _____
(Name of other parent) *(Address)*

in _____,
(Town/City) *(State)*
5. I do so recognize that by acknowledgment of said child(ren), I accept all of the responsibilities associated with being the primary provider for the said child(ren). Including my duty and responsibility to provide for the support, maintenance, and education of said child(ren), until the child(ren) reaches the age of maturity or until the time custody is relinquished to the parent and/or parents.
6. I am stating to the Te-Moak Housing Authority that all of the information provided is accurate and true. Any deliberate omission or willful misrepresentation of any information provided may used as grounds to deem ineligibility for any housing programs. I understand that I am applying for the Low Rent and/or Mutual Help housing programs as a family. If I become a single person I understand that it is grounds for eviction.

By signing this document, I am stating that all information is true and correct to the best of my knowledge.

(Applicant's Printed Name)

(Date)

(Signature)

State of Nevada

County of _____

This instrument was acknowledged before me on this ____ day of _____, 20____,
by _____.

Notary Public

purpose of verifying my eligibility and level of benefits under HUD's assisted housing programs. I understand that HAs that receive income information under this consent form cannot use it to deny, reduce or terminate assistance without first independently verifying what the amount was, whether I actually had access to the funds and when the funds were received. In addition, I must be given an opportunity to contest those determinations.

This consent form expires 15 months after signed.

Signatures:

Head of Household	Date		
Social Security Number of Head of Household		Other Family Member(s) 18 years and older	Date
Spouse	Date	Other Family Member(s) 18 years and older	Date
Other Family Member(s) 18 years and older	Date	Other Family Member(s) 18 years and older	Date

Privacy Act Notice. Authority: The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et. Seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and by the Fair Housing Act (42 U.S.C. 3601-19). The Housing and Community Development Act of 1987 (42 U.S.C. 3543) requires applicants and participants to submit the Social Security Number of each household member who is six years old or older. **Purpose:** Your income and other information are being collected by HUD to determine your eligibility, the appropriate bedroom size, and the amount your family will pay toward rent and utilities. **Other uses:** HUD uses your family income and other information to assist in managing and monitoring HUD-assisted housing programs, to protect the Government's financial interest, and to verify the accuracy of the information you provide. This information may be released to appropriate Federal, State, and local agencies, when relevant, and to civil, criminal, or regulator investigators and prosecutors. However, this information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. **Penalty:** You must provide all of the information requested by the HA, including all Social Security Numbers you, and all other household member age six years and older, have and use. Giving the Social Security Numbers of all household member six year of age and older is mandatory, and not providing the Social Security Numbers will affect your eligibility. Failure to provide any of the requested information may result in a delay or rejection of your eligibility approval.

Employer Name: _____

Employer Address/Phone Number: _____

Employer Name: _____

Employer Address/Phone Number: _____

Employer Name: _____

Employer Address/Phone Number: _____

Penalties for Misusing this Consent:

HUD, the HA and any owner (or any employee of HUD, the HA or the owner) may be subject to penalties for unauthorized disclosures of improper uses of information collected based on the consent form.

Uses of the information collected based on the form HUD 9886 is restricted to the purposes cited on the form HUD 9886. Any person, who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000.

Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD, the HA or the owner responsible for the unauthorized disclosure or improper use.

TE-MOAK TRIBE OF WESTERN SHOSHONE
HOUSING AUTHORITY

CERTIFICATION PAGE

I/We have provided the requested information for the **Housing Application/Annual Recertification/Interim Change** to the best of my/our knowledge and do understand that the information provided is subject to third party verification. **Any deliberate omission or willful misrepresentation of any information provided may be used as grounds to deem ineligibility for any housing program under management of Te-Moak Housing Authority. I/We also understand that this is not a contract and does not bind either party.** I/We further authorize all inquiries necessary to verify the information provided and also give my/our consent for Te-Moak Housing Authority to investigate my/our criminal and payment history. In accordance with Title II, Sec. 208(a) of NAHASDA (*see excerpt below), the housing authority will have the ability to obtain any criminal information on all **NEW** applicants/tenants and all housing members listed as part of the household composition, who are eighteen (18) years of age and older, as well as **EXISTING** participants/tenants and all household members, who are 18 years of age and older, that reside in the housing authority's units. I/We have read the Te-Moak Housing Authority's **Housing Application/Annual Recertification/Interim Change** forms in its entirety and I/we fully understand its requirements and my/our obligations.

Signature of Applicant/Tenant

Date

Signature of Co-Applicant/Tenant

Date

Household Occupant 18 & Older

Date

Household Occupant 18 & Older

Date

*NAHASDA SEC. 208. AVAILABILITY OF RECORDS

[25 USC 4138]

(a) PROVISION OF INFORMATION. Notwithstanding any other provision of law, except as provided in subsection (b), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to Indian tribes or tribally designated housing entities regarding the criminal conviction record of applicants for employment, and of adult applicants for, or tenants of, housing assisted with grant amounts provided to such tribe or entity under this Act for purposes of applicant screening, lease enforcement, and eviction.

TE-MOAK HOUSING AUTHORITY NEW HOUSING APPLICATION CHECKLIST

To speed up the application verification process, please attach the following information when submitting your housing application.

Applicant's Name: _____

Included with my housing application is:

- The housing program(s) selected. (page 3)
- The area of interest selected. (page 3)
- Each adult person(s) eighteen (18) years of age or older **require a Birth Certificate and Two (2) forms of identification**, children must have two (2) forms of identification.
- **If married**, a copy of the marriage certificate. (page 3)
- **If applying with child(ren)**, see copy of attached **Affidavit of Custody form**.
- **If employed**, attach copies of current three (3) month current check stubs. **If receiving additional income sources** (i.e. Social Security, Retirement, or Unemployment) **attach copies of award letters or direct deposit amounts**. (page 5 & 6)
- If Landlord History is left blank, attach copy of **LETTER OF RECOMENNDATION**, **from the Head of Household where you currently reside**. (page 6 & 7)
- **Every person listed as part of the household composition, who is eighteen (18) years of age and older, is required to sign the Certification & Income Authorization Page**. (page 8 & subsequent page)

If you have any questions regarding this housing application, please contact any Client Service personnel at: (775)738-9238.

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 <u>and</u> 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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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;

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- (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 FR39861 July 11, 2008]

TE-MOAK TRIBE OF WESTERN SHOSHONE HOUSING AUTHORITY

MUTUAL HELP ADMISSIONS AND OCCUPANCY POLICY

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 or 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

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)	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 and 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: General Crimes Act - 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: General Crimes Act - 18 U.S.C. §§ 1152 & 13)	FEDERAL
	Domestic Violence, Dating Violence, or Violation of Protection Order offenses [when defendant: 1) resides in Indian country, 2) works in Indian country, or 3) is a spouse or partner of a member of a participating tribe or is an Indian residing in Indian country of a participating tribe] (Authority: tribal code and 25 U.S.C. § 3101)	TRIBAL * **
NON-INDIAN	All crimes contained in state code. (Authority: <i>United States v. McBratney</i> , 104 U.S. 621 (1881))	STATE

* limited to 1 year sentence & \$5,000. fine, unless tribe approved under Tribal Law & Order Act for 3 yr. felonies.

** effective after 3/7/15 if the tribe provides U.S. Constitutional protections in tribal court.

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

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

STATE ONLY

3. GENERAL FEDERAL CRIMES: OTHER FEDERAL CRIMES OF GENERAL APPLICABILITY (Affecting Interstate Commerce or a Federal Interest)

(Federal prosecution based on federal interest, not based on territorial jurisdiction over location of crime) (c.g., drug offenses, firearms offenses, mail fraud, embezzlement or theft from tribal organization, theft from casino, failure to report child abuse, etc.) (Authority: individual federal statute)

FEDERAL

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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.

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