

Puyallup Tribal Housing Authority
Resident Drug and Alcohol Policies

Adopted: April 5, 2007
Revised: September 18, 2009
Revised: August 26, 2010

SECTION I. PURPOSE

- A. The purpose of this drug and alcohol policy is to assure a healthy, safe and peaceful environment for all persons residing in housing assisted by the Puyallup Tribal Housing Authority.
- B. It is the intent of this policy to bar participation in all Puyallup Tribal Housing Authority programs of all persons engaged in -
 - 1. drug-related or alcohol-related criminal activity, whether on or off Puyallup Tribal Housing Authority premises, and
 - 2. incidents involving alcohol inebriation on Puyallup Tribal Housing Authority premises.
- C. This policy is incorporated by reference into all Puyallup Tribal Housing Authority leases, rental agreements, rental assistance agreements and homebuyer agreements.

SECTION II. APPLICABILITY

This policy applies to all PTHA programs, all PTHA premises (rental or homebuyer units), and to all rental assistance premises, wherever situated. All drug and alcohol testing conducted under this policy shall be conducted by a firm selected by PTHA for that purpose, and all such testing shall be "observed" testing, meaning that the person submitting to the test shall be observed in the act of providing the sample.

SECTION III. DEFINITIONS

- A. "PTHA" means the Puyallup Tribal Housing Authority."
- B. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use or possession of a controlled substance, whether on or off PTHA premises, and includes offenses for which only a civil penalty may be assessed. "Drug-related criminal activity" includes, but is

not limited to, the illegal manufacture, sale, distribution, use or possession of a controlled substance by a visitor or guest on PTHA premises or rental assistance premises, or such an individual being under the influence of a controlled substance while on PTHA premises or rental assistance premises.

- C. "Controlled substance" is a substance included in Schedules I, II, III, IV or V of the Controlled Substance Act, 21 U.S.C., 801, et seq. These controlled substances include but are not limited to marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP). A copy of the schedules of controlled substances as of April 1, 2006, is attached hereto. Any modifications to such schedules shall be considered to be a modification of this policy.
- D. "PTHA premises" includes all housing units, whether rental or homebuyer, all common areas, all administrative areas and all lands, buildings and grounds owned by or leased to the PTHA or any homebuyer under any PTHA housing program.
- E. "Incident involving alcohol inebriation" shall include, but not be limited to, alcohol-related disturbances such as disruptive gatherings at which alcohol is present or persons are inebriated, or domestic disputes in which alcohol is a factor.
- F. "Alcohol-related criminal activity" shall include, but not be limited to, the sale or distribution of alcohol to a minor and other alcohol-related activities, whether on or off PTHA premises, which are illegal under tribal, state or federal law.
- G. "Rental assistance premises" includes the dwelling unit for which rental assistance is being provided, any other dwelling unit in the same building or complex, all common areas, all administrative areas and all other grounds or facilities held out for the use of tenants generally.

SECTION IV. MANDATORY DRUG AND ALCOHOL TESTING

- A. Applicants and New Residents. Drug and alcohol testing shall be required of the following persons:

1. Every applicant for PTHA housing;
 2. Every individual who is eighteen years of age or older who will be living with the applicant;
 3. Every individual who is eighteen years of age or older and who joins an established household living in housing assisted by the PTHA.
- B. Transfers. Drug and/or alcohol testing shall be required of the persons described in Paragraph (A) when any one or more persons in an existing PTHA household applies for transfer to a PTHA program other than the program in which the household is currently participating.
- C. Annual Recertification. Each member of every household receiving benefits from PTHA who is 18 years of age or older will be required to submit to a drug test within 60 days of the annual recertification. The procedure for the drug test is as follows: at some point during the 60 day period, the date to be chosen at PTHA's sole discretion, PTHA will provide 24 hours notice to the household that the drug test will be taken of all members of the household 18 years of age or older.
- D. Reasonable Suspicion.
1. Drug and/or alcohol testing may be required of any homebuyer, tenant or person participating in the rental assistance program, and any other person living with such a PTHA program participant, where the PTHA has reasonable suspicion to believe that such individual is or has been engaging in --
 - a. drug-related or alcohol-related criminal activity, whether on or off PTHA premises; or
 - b. one or more incidents involving alcohol inebriation on PTHA premises or rental assistance premises.

2. "Reasonable suspicion" means that a person observing the individual's appearance, speech, odor or behavior could objectively conclude that the individual is or has been using alcohol or drugs. Such observations and conclusions should be documented in writing by a PTHA staff person and supported by the corroboration of a supervisor or person of authority on the PTHA staff, whenever feasible.
3. The PTHA will obtain the written concurrence of one of the following persons before requiring an individual to take a drug or alcohol test based on reasonable suspicion:
 - a. legal counsel for the PTHA,
 - b. legal counsel for the Tribe,
 - c. the Tribal prosecutor or a deputy or associate prosecutor for the Tribe, or
 - d. a judge of the Puyallup Tribal Court.
- E. Both the timing of the testing and the specific tests to be required shall be at the sole discretion of the PTHA.
- F. Any person with a verified positive test result for a controlled substance (other than as could have resulted from a legally prescribed medication as determined by a licensed physician) shall be considered to have engaged in drug-related criminal activity during the term of the tenancy of the homebuyer, tenant or rental assistance participant.
- G. Any person with a verified concentration of alcohol of .08 or higher shall be considered to have engaged in an incident involving alcohol inebriation during the term of the tenancy of the homebuyer, tenant or rental assistance participant.
- H. The drug testing provisions of this section IV shall not be applied to any person 55 years of age or older. PTHA shall not require any person 55 years of age or older to take a drug test.

SECTION V. INELIGIBILITY

The following persons shall be ineligible for admission to any PTHA program for a three-year period and ineligible to reside in PTHA housing for a three-year period:

A. Prior Drug or Alcohol-Related Eviction, Termination or Conviction

1. Any person who was a member of a household evicted by any Tribe, Tribally Designated Housing Entity or public housing authority, or terminated from any section 8 or other housing voucher or rental assistance program, or whose homebuyer, lease agreement, section 8 agreement or rental assistance agreement with any Tribe, Tribally Designated Housing Entity or any public housing authority has been terminated because of --
 - a. A drug-related or alcohol-related criminal activity; or
 - b. An incident involving alcohol inebriation.
2. Any person who has been convicted in any jurisdiction of an offense (including levy of a civil assessment) because of --
 - a. A drug-related criminal activity; or
 - b. An incident involving drug-related criminal activity.
3. Ineligibility under this Paragraph (A) shall begin on the date of such eviction, termination, conviction, or completion of any criminal sentence, whichever is latest.

B. Refused or Positive Drug or Alcohol Test.

1. Any person who is required to take the drug and alcohol tests under this Policy and who refuses or fails to take any such test or tests.
2. Any person whose drug test reveals that the person has engaged in drug related criminal activity during the

term of the tenancy of the homebuyer, tenant or rental assistance participant, as provided in Section IV(E).

3. Any person who has engaged in an incident involving alcohol inebriation during the tenancy of the homebuyer, tenant or rental assistance participant, as provided in Section IV(F).
4. Ineligibility under this Paragraph (B) shall begin on the date that the drug or alcohol test was taken or was to have been taken.

C. Other Circumstances.

1. Any homebuyer, tenant or rental assistance participant, or any other person living with such a PTHA participant, who has engaged in a drug-related or alcohol-related criminal activity, whether on or off PTHA premises or rental assistance premises, on the basis of evidence deemed adequate by the PTHA.
2. Any homebuyer, tenant or rental assistance participant, or any other person living with such a PTHA participant, who has engaged in a an incident involving alcohol inebriation on PTHA premises or rental assistance premises, on the basis of evidence deemed adequate by the PTHA.
3. A resident, visitor, or guest who is removed from PTHA premises or rental assistance premises under this Policy, other than temporary removal, by a homebuyer, tenant or rental assistance participant.
4. Ineligibility under this Paragraph (C) shall begin on the date of such activity, incident or removal.

SECTION VI. WAIVER OF INELIGIBILITY

- A. The Board of Commissioners of the PTHA may waive the ineligibility of any person who is ineligible for admission to or participation in a PTHA program if:

1. The person demonstrates successful completion of a supervised drug or alcohol rehabilitation program approved by the PTHA, including successful completion of any required follow-up treatment plan or other follow-up requirements; or
 2. The circumstances leading to the ineligibility no longer exist. For example, the individual involved in drug or alcohol use is no longer in the household.
- B. Any person desiring to have his or her ineligibility waived shall have the burden of showing that the requirements for waiver have been met.
- C. Nothing in this section shall require waiver of ineligibility under any circumstances.
- D. The Board of Commissioners by separate resolution or board action may delegate the authority to waive the ineligibility for admission to any one or more of its members, consistent with paragraphs (A)-(C) of this Section, to the Executive Director of the PTHA, to any other suitable employee of the PTHA or to any combination of the foregoing.

SECTION VII. EVICTIION OR TERMINATION

- A. Eviction - Tenants. Tenants may be evicted if any one of the following circumstances occurs during the term of tenancy:
1. The tenant, or any member of tenant's household, any visitor or any guest, or other person under tenant's control, has engaged in drug-related or alcohol-related criminal activity, whether on or off PTHA premises;
 2. The tenant, or any member of tenant's household, any visitor or any guest, or other person under tenant's control, engaged in an incident involving alcohol inebriation on PTHA premises;

3. The tenant or a member of tenant's household failed or refused to take any test or tests required under this policy.
 4. The tenant or a member of tenant's household is otherwise ineligible under Section V of this Policy.
- B. Termination - Homebuyers and Rental Assistant Program Participants. A participant's homebuyer or rental assistance program agreement shall be terminated if any one of the following circumstances occurs during the term of the agreement:
1. The participant, or any member of the participant's household, any visitor or any guest, or other person under the participant's control, has engaged in drug-related or alcohol-related criminal activity, whether on or off PTHA premises or rental assistance premises.
 2. The participant, or any member of the participant's household, any visitor or any guest, or other person under the participant's control, engaged in an incident involving alcohol inebriation on PTHA premises or rental assistance premises.
 3. The participant or a member of participant's household failed or refused to take any test or tests required under this policy.
 4. The participant or a member of participant's household is otherwise ineligible under Section V of this Policy.

SECTION VIII. FORBEARANCE REGARDING EVICTION OR TERMINATION

- A. The Board of Commissioners may, in its sole discretion, forbear in the eviction of any person or the termination of any homebuyer agreement or rental assistance agreement under this policy if:

1. The person demonstrates successful completion of a supervised drug or alcohol rehabilitation program approved by the PTHA, including successful completion of any required follow-up treatment plan or other follow-up requirements; or
 2. The circumstances leading to the ineligibility no longer exist. For example, the individual involved in drug or alcohol use is no longer in the household; or
 3. The Board of Commissioners determines that there are extraordinary circumstances (such as the welfare of a minor child) which warrant forbearance; and, the person completes or agrees to complete any other requirements the Board of Commissioners, at its sole discretion, may impose, including but not limited to periodic alcohol and/or drug tests or other tests; or
 4. The person is participating in a supervised drug or alcohol rehabilitation program approved by the PTHA and continues in full compliance with such program and any required follow-up treatment plan or other requirements, and the person completes or agrees to complete any other requirements imposed by the Board of Commissioners, including but not limited to periodic alcohol and/or drug tests or other tests; or
 5. The tenant, homebuyer or rental assistance participant promptly secured the removal of the offending household resident, visitor or guest from the premises, other than temporary removal.
- B. Any person desiring forbearance regarding eviction or termination shall have the burden of showing that the requirements for forbearance have been met.
- C. Nothing in this section shall require forbearance regarding eviction or termination under any circumstances.
- D. The Board of Commissioners by separate resolution or board action may delegate the authority to forebear regarding eviction or termination to any one or more of its members, members consistent with paragraphs (A)-(C) of this Section,

to the Executive Director of the PTHA, to any other suitable employee of the PTHA or to any combination of the foregoing.

SECTION IX. GRIEVANCES

- A. Except as specified in the paragraph (B), any grievance arising under this policy shall be resolved in accordance with the applicable grievance procedures for PTHA.
- B. There shall be no right to a hearing other than a court hearing in the case of an eviction or termination where there is an allegation regarding the manufacture, sale or distribution of a controlled substance on PTHA premises or where there is an allegation of the sale or distribution of alcohol to a minor child on PTHA premises; except that the Board of Commissioners, at its sole discretion may provide a hearing to any such person who requests a hearing.

SECTION X. MISCELLANEOUS PROVISIONS

- A. Criminal History. Any criminal record (i.e. criminal conviction record information received from a law enforcement agency) received in order to administer this policy must be -
 - 1. Maintained confidentially;
 - 2. Retained separate from all other housing records;
 - 3. Kept under lock and key and be in the custody and control of the PTHA Executive Director or his or her designee for such records;
 - 4. Accessed only with the written permission of the PTHA Executive Director or his or her designee and used only for the purposes allowed under this Policy; and
 - 5. Must be destroyed once the purpose for which it was requested is fully accomplished.
- B. Copy of Criminal Conviction or Civil Penalty Record

A certified copy of a criminal conviction record or of a civil penalty record shall be conclusive proof of the drug-related criminal activity identified in the record or of the alcohol-related offense specified in the record; provided, that before any adverse action based on such a record can be taken, the person must be provided with a copy of the record and an opportunity to dispute the accuracy or relevancy of the record. In the case of an eviction or termination for which no opportunity for a hearing is required prior to the court hearing, a copy of the record shall be filed with the court and served on the tenant or homebuyer with the Summons and Complaint.

C. No Requirement for Criminal Conviction or Civil Penalty

In no instance shall a criminal conviction be required to have been entered or a civil penalty be required to have been assessed in order for a person to be ineligible for admission to PTHA programs or be subject to eviction or termination from a PTHA rental, homebuyer or rental assistance unit.

D. Other Requirements

Any applicant for PTHA housing (including applicants for transfer to another PTHA program) and any other prospective resident shall be required to sign such release forms and to provide such other information as may be necessary to assure full compliance with this section.