

**HOMEOWNERSHIP PROGRAM**

**Chapter 12 - Eligibility for Continued Occupancy and Re-Examination for Homeownership Programs**

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*Legislative History.* Duck Valley Housing Authority Eligibility for Continued Occupancy and Re-Examination for Home ownership Program supersedes and replaces in its entirety the Duck Valley Housing Authority Admissions and Occupancy Policy for Homeownership Housing Programs, Resolution (2013-DVHA-06).

#### 12.1 Eligibility for Continued Occupancy

- 12.1.2 In order to continue to participate in all DVHA Homeownership Programs, the homebuyer must continue to meet the following requirements of the homeownership program.
- 12.1.3 Upon the execution of this Agreement, DVHA has will have made a determination that Participant meets or has met the eligibility conditions to enter into this Agreement and occupy the Home as of the Occupancy Date.
- 12.1.4 The homebuyer and/or members of his/her household and visitors must comply with DVHA housing policies and procedures affecting the use and occupancy of the premises.
- 12.1.5 The homebuyer shall keep the premises in a clean, safe and sanitary condition.
- 12.1.6 The homebuyer may not sell or sublease the house, take in any boarders, or use the house as a place of business, without the written permission of the DVHA.
- 12.1.7 The homebuyer may not make any structural changes to the house or grounds without the express written permission of DVHA.
- 12.1.8 The homebuyer is responsible for notifying the DVHA within 72 hours of any fire or weather damage to the unit and of any substantial maintenance need that he/she is unable to perform.
- 12.1.9 The homebuyer is responsible for notifying DVHA, in writing, whenever there is a change in household income in order for DVHA to verify that the monthly house payment is accurate/sufficient.
- 12.1.10The homebuyer must abide by all terms and conditions of the homeownership agreement entered into between the homebuyer and DVHA. Where there is a conflicting provision between policy and the Homeownership Agreement, the agreement controls.

#### 12.2 Periodic Re-examinations

Annually, the Homebuyer income, family composition and other relevant factors will be re-examined and monthly payments adjusted accordingly. Participants must submit required financial and other information for re-examination, on request. This requirement may be waived for up to three (3) years by DVHA for those Homebuyers that can

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demonstrate good housekeeping and on time house payments, in compliance with their agreements.

#### 12.3 Special Re-examination.

When it is not possible to estimate adjusted family income with a reasonable degree of accuracy at the time of admission or annual re-examination, a temporary determination will be made with respect to income and a special re-examination will be scheduled. Such special re-examinations will be scheduled at the DVHA Executive Director's discretion. The homebuyer will be notified in advance, in writing, regarding the date of the special re-examination.

#### 12.4 Re-examination

12.4.1 Increases in monthly payments, which result from regularly scheduled examinations, are effective the first day of the second month after the examination.

12.4.2 Decreases in monthly payments will become effective on the first day of the first month following the re-exam.

12.4.3 If a homebuyer fails to provide income information promptly, when request, changes in monthly payments due to re-examination may be made retroactive to the proper effective date.

12.4.4 Homebuyers who fail to provide the required income information within the ten (10) business days shall be sent a final notice advising them to submit the information within five (5) business days.

12.4.5 Homebuyers who fail to comply with a final notice request are in violation of this policy and subject to termination of their agreement following the termination process cited in their homeownership agreement and detailed in the *Homeownership Agreement and Payment and Collections Policy*, RESO 2018-DVHA-18.

#### 12.5 Re-examination Follow-up

12.5.1 If there is any change in the house payment, the DVHA will promptly mail and deliver a "Notice of House Payment Adjustment" to the homebuyer.

12.5.2 As a part of the record of each family re-examined, the DVHA Executive Director, or designee, will verify that Participant continues to meet eligibility conditions and will notify the participant in writing that Participant continues to meet the eligibility

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requirements for continued occupancy in the space provided on the application for continued occupancy and acknowledged by the homebuyer.

#### 12.6 Inspections

##### 12.6.1 *Annual inspections.*

12.6.1.1. DVHA shall provide the homebuyer with written notification of the scheduled inspection at least ten (10) business days prior to the date of the inspection. The notice shall state that the inspection is a requirement of the homeowner agreement and give the date and time of the inspection.

12.6.1.2. DVHA shall conduct a thorough inspection of the interior and exterior of the home by the appropriate DVHA staff (e.g., maintenance and homeownership counselor). The homebuyer shall sign the inspection report, which contains the results of the inspection.

12.6.1.3. If the inspection reveals any homebuyer caused deficiencies or damages in the condition of the home the homebuyer shall be given thirty (30) days to correct the deficiencies, at which time a follow-up inspection shall be scheduled.

12.6.1.4. DVHA shall conduct a follow-up inspection to determine if the deficiencies have been corrected. The homebuyer shall be notified in writing either by US Mail, email, fax, or hand delivery and given the opportunity to be present at the inspection. If the homebuyer has not corrected the deficiencies, DVHA shall provide written notice to the Homebuyer that if the Homebuyer is unable to cure the damages DVHA shall complete the repairs, the cost of which shall be identified and billed to the Homeowner in a separate payback agreement.

12.6.1.5. In the event that it is clear that the Homebuyer is unable to cover the costs associated with homeownership, DVHA shall also have the discretion to offer the Homeowner the option to apply for a low rental unit, depending on availability. DVHA may also terminate the homebuyer agreement in accordance with the terms of the applicable agreement and DVHA policy.

12.6.1.6. In cases where the Homebuyer is unable to cover the above costs DVHA shall perform the necessary work and charge the homebuyer's Monthly Equity Payment Account (MEPA) account for homebuyers in the Mutual Help Program or the equity account for homebuyers in the Homeownership Program.

12.6.1.7. Recurring unacceptable inspections will result in the termination of the applicable agreement.

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12.6.1.8. DVHA may waive annual inspections on those homes that have a good inspection record and perform inspections every three years thereafter. If subsequent inspections become poor then the inspections shall return to an annual inspection schedule.

12.6.1.9. Participant shall permit DVHA to inspect the Home at reasonable hours and intervals and Participant shall participate in all inspections.

#### 12.6.2 *Special inspections.*

In addition to the annual inspection, special inspections may be required by the DVHA if the homebuyer has received unfavorable inspection reports in the past. Special inspections may be required as a condition of continued occupancy if the homebuyer has a poor record of homecare at past residences.

### 12.7 **Rules of Occupancy**

12.7.1 *Principal residence.* As a condition of continued occupancy, homebuyers are required to use the home as a principal residence, and not own or have any interest in a private home, locally or elsewhere, on or off reservation, except for purposes of education, military, medical reasons or seasonal work, with DVHA approval. Incarceration is not an approved temporary absence.

12.7.2 *Determination of abandoned unit.* A home which has been unoccupied for a period of 30 consecutive days or more without written notification to the DVHA may be determined to be abandoned and in breach of the HOOA (lease purchase agreement) or other homebuyer agreement and this Policy.

12.7.3 *Business use.* The use of the residence for operation of a business may be approved by the DVHA if consistent with the homebuyer agreement. The operation must be essential for the wellbeing of the family or for the family to meet its obligation under the homebuyer agreement. The operation of the business should not negatively impact neighbors or the surrounding community. A request to operate a business out of the home must be made in writing. A decision on the request shall be made within fourteen (14) business days of the date of the request. A denial is subject to the DVHA's grievance procedure. (See Grievance Policy, Res. 2018-DVHA-04)

12.7.4 *Structural Changes.* No homebuyer shall make any structural changes unless approved by the DVHA, in writing and provide detailed information regarding the proposed change (e.g. plans/specifications). If the homebuyer is in full compliance with the terms of the homebuyer agreement, the DVHA may approve the request.

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Modifications which are approvable include but are not limited to energy conservation items, permanent fencing, and cosmetic interior items. All cost and expenses incurred by the homebuyer in making modifications shall be solely the responsibility of the homebuyer. No liens may be placed on the home in connection with structural modification.

- 12.7.5 *Damage to property.* Homebuyers shall refrain from damaging, defacing, vandalizing, destroying or removing any part of the unit, neighborhood, and community including all public and DVHA owned property. The signatories to the housing agreement shall be responsible for all family members, residents and guests of their homes.
- 12.7.6 *Public disturbance.* Homebuyers, residents and guests shall not engage in unlawful activities or activities which cause a disturbance to neighbors and the surrounding community. Residents shall maintain compliance with DVHA homebuyer agreements and this Policy.
- 12.7.7 *Responsibility to provide utilities.* It is the responsibility of the homebuyer to provide all utilities for the unit including all deposits.
- 12.7.9 *Payments/Rent.* All homebuyer payments are due on the first day of the month without billing or prior notice, in accordance with the DVHA Collection Policy at Chapter 13. All payments are to be made at the DVHA administrative office located at 1794 Horseshoe Bend, Owyhee, NV 89832 or sent by mail to P.O Box 129, Owyhee, Nevada 89832. Payments shall be made by cashier or personal checks, money orders, cash, debit/credit cards, ACH (automated clearinghouse) deposits, payroll/dividend deduction.
- 12.7.10 *Maintenance/appearance of the home and property.* The homebuyer shall provide all maintenance and basic upkeep of the home, keeping it in acceptable condition and free from garbage/trash, clutter, and debris. The DVHA will monitor the condition of the unit through annual inspections. If DVHA is required to remove trash, after first giving a three (3) day notice to homebuyer, DVHA shall remove the garbage/trash and charge the homebuyer for all costs associated with the removal of the garbage/trash from the property.
- 12.7.11 *Insurance.* The DVHA shall provide required insurance on the unit structure including fire and extended coverage. The homebuyer will have to secure his/her own insurance for personal property and contents. It is the homebuyer's

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responsibility to immediately report all damages to the unit at the soonest available time so claims can be processed in a timely manner.

12.7.12 *Requirement to list occupants.* The homebuyer is required to list all occupants of the unit on the family's admission form/record/application for continued occupancy. Any visitors who remain for an extended period (more than 30 consecutive days) are subject to inclusion on the family's official record.

12.7.13 *Participant responsibility for children and guests.* The homebuyer is responsible for all of the occupants, guests, and children of the home and may be held accountable for their actions.

12.7.14 *Counseling.* The homebuyer may be required to attend counseling sessions as a condition of continued occupancy, which may include financial and budgeting counseling.

12.7.15 *Contact Information.* Homebuyer is required to provide current contact information to DVHA, including but not limited to, current *mailing address*, work contact information, email address, and/or phone number. If any mail is returned and/or not claimed by the post office for PO Box address, and returned to DVHA, a three (3) business day notice to provide current contact information will be hand-delivered to homebuyer. If homebuyer has not cured the deficiency within the three (3) business days of receiving the notice, DVHA will proceed with termination/eviction proceedings.

#### 12.8 **Prohibition of illegal drug activities**

Any conviction (including "no contest" pleas) for a drug-related criminal activity or any possession, sale, use or manufacturing of illicit drugs or controlled substances shall be grounds for immediate termination in accordance with the homebuyer agreement and this Policy. Unless otherwise provided by law, proof of a violation shall not require a criminal conviction, but shall be substantial evidence of the type reasonably relied upon by property managers in the usual and regular course of business and in all cases left to the discretion of the DVHA. If there is a reasonable belief that an offense has been committed, the Executive Director of DVHA will determine if the offense warrants further investigation and/or adverse action by forwarding a report to law enforcement. The DVHA reserves the right to immediately terminate the homebuyer agreement and invoke the eviction process against any of its homebuyers for what it considers a violation of this provision and collect from the homebuyer all costs to mitigate damage due to drug activity in the unit or to clean up the unit to remove any drug residue and/or hazardous resultant effects in the unit. Provided a homebuyer can show proof of rehabilitation satisfactory to DVHA and at

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DVHA's sole discretion after five (5) years from the date of termination of the homebuyer agreement, the homebuyer will be allowed to participate in DVHA housing programs.

#### 12.9 Prohibition of alcohol and drug abuse.

The Homeownership Program Specialist or other DVHA employee working with the homebuyer shall have the responsibility of reviewing the applicable agreement with the homebuyer in regard to drug and alcohol abuse/activities. Evidence of alcohol-related activities that may be considered alcohol abuse include, but are not limited to, fighting, damaging property, domestic violence, child abuse and neglect and disturbing the peace, with alcohol involved. The reviewer should require the participant to initial those provisions relating to drug and alcohol abuse/activities after assuring that the participant understands and agrees to comply with the same.

#### 12.10 Responsibilities/obligations under the agreement(s).

The homebuyer is responsible for complying with all responsibilities/obligations in accordance with the homebuyer agreement, applicable regulations and DVHA policies. Failure to comply with the terms and conditions of the Homebuyer Agreement will result in the homebuyer being ineligible and the homebuyer agreement being terminated.

#### 12.11 Definitions

12.11.1. "Complainant" for purposes of this policy means a Homebuyer whose rights, duties, welfare, or status are adversely affected by DVHA action or failure to act and, who files an Appeal or Complaint with respect to such action.

12.11.2. "Appeal" or "Complaint" means any dispute with respect to DVHA action or failure to act pursuant to a Home Ownership & Occupancy Agreement or Mutual Help and Occupancy Agreement.

#### 12.12 Decision of Ineligibility for Continued Occupancy

12.12.1. *Ineligibility Decision Letter.* A Homebuyer found to be ineligible for continued occupancy shall be subject to **termination of their homebuyer agreement or may be counseled to apply for a low income rental unit.** A Decision Letter shall be issued to the homebuyer stating (1) the ineligibility decision; (2) the reason(s); the (3) effective date of the termination, (4) a specific date the homebuyer is required to vacate the unit (5) Homebuyer's right, if any, to appeal the decision by requesting a Hearing before the BOC, in writing, within five (5) business days from the date of the Decision Letter.

#### 12.13 Appeals



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12.13.1. Appeals must be filed by requesting a Hearing before the Board of Commissioners, in writing, by US Mail, email, fax, or hand delivery, within five (5) business days from the date of receipt of the *Ineligibility Decision Letter*.

12.13.2. *Notice of Hearing*. In response to the Homebuyer request for a Hearing before the Board of Commissioners, DVHA shall issue a Notice of Hearing by certified mail and hand delivery that provides the date, time and place of hearing for the Homebuyer to show cause as to why the agreement should not be terminated.

12.13.3. *Waiver of Right to a Hearing*. The Notice of Hearing shall also include a statement that if the Homebuyer fails to appear at the scheduled hearing, DVHA shall consider their absence to be a waiver of the Homebuyer's right to a hearing.

12.13.4. *BOC Discretion*. The BOC shall have the discretion to (1) uphold the termination of the Homebuyer Agreement or (2) allow such remedy as the BOC determines is appropriate.

12.13.5. *Decision Deadline*. The Participant shall be informed of the final decision within ten (10) business days of the decision, in writing, whether the decision is made the night of the hearing or at a subsequent meeting.

12.13.6. *Notice to Vacate*. At the Executive Director's discretion, the original date to vacate found in the Ineligibility Decision letter, shall be reinstated or a new date issued in the final decision letter.

12.13.7. *Exclusion*. Grievances related to terminations based upon activity that threatens the health or safety of the area or is based upon criminal activity are excluded from the grievance procedure.

12.13.8. *Exhaustion of Remedies*. No grievance shall be valid where the homebuyer has not first exhausted all administrative remedies.

#### 12.14. **Final Decision**

The Board of Commissioner's decision is a final agency decision. Failure to vacate will result in DVHA seeking judicial action.