Chapter 3. Occupancy Procedures for Low Income Elder and Tribally Owned Homes

Section 1. Authority; Purpose

1-1. *Authority.* In accordance with sections 6.01(a) and (c) and 6.02(e) and (g) of the Housing Commission Ordinance, #04-700-01, the Housing Commission hereby promulgates these regulations for eligibility for low income elder and tribally owned rental homes.

1-2. *Purpose.* The purpose of Chapter 3 is to identify processes by which housing units are occupied and the general rules and conditions each applicant must abide by.

1-3. *Application of Chapter 3.* Chapter 3 is applicable to all applicants and renters participating in the following Housing Department programs:

a. Elder Units Housing at Aki maadiziwin
b. Tribally owned rental units.
c. Tribally owned low income rental units.

Section 2. Definitions

2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word Ashall@ is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in Chapter 1 and the Housing Commission Ordinance are defined for the purposes of all Housing Commission Regulations.

Section 3. Occupancy Standards

3-1. *Number of Persons in Household.* Because of the limited availability of housing units, and in order to prevent overcrowding and to avoid under-utilization of a housing unit, homes shall be assigned in accordance with the following schedule. The Housing Department may make exceptions due to unusual circumstances. Factors to be considered include age and sex of children, potential changes in family composition, availability of unit sizes, etc.

NUMBER OF BEDROOMS	NUMBER OF PERSONS
1 BR	1-3
2 BR	1-5
3 BR	~~3-8~~ 2-8
4 BR	~~5-9~~ 3-9
5 BR	~~7~~ 4 & up

3-2. *Maximum Occupancy - Elder Homes.* Notwithstanding anything to the contrary in section 3-1, the maximum occupancy of elder homes is three persons per home.

Section 4. Lease agreement

4-1. *Execution of the lease agreement.* Prior to occupancy of a home, the applicant shall execute a lease agreement with the Housing Department. This lease agreement is a legal document which describes rights, duties, obligations, and responsibilities, and shall be executed promptly after final selection of the applicant. The lease agreement shall be executed in duplicate original with both parties receiving an original document. The head of household and spouse will sign the lease agreement within 2 weeks of receipt of the lease agreement and the

Housing Director will sign on behalf of the Tribe. At no time shall an applicant be allowed to move into the unit without a fully executed lease agreement. Failure to sign a lease agreement within the 2-week period of time shall result in the applicant losing the opportunity to move into the unit and shall be placed at the bottom of the waiting list.

4-2. *Changes, modifications, and amendments to the lease agreement.* If the applicant is no longer a member of the household, or there is a transfer to another home, a new lease agreement shall be executed. The Housing Department may revise or adopt policies which affect the resident's obligations and requirements under the lease agreement. Such changes do not require execution of a new lease agreement.

4-3. *Termination of lease agreement by the resident.* The resident may terminate the lease agreement provided that a 30-day written notice is given to the Housing Department, and the procedures for termination contained in the lease agreement are followed.

4-4. *Termination of lease agreement by the Housing Department.* The Housing Department may terminate the lease agreement in accordance with the provisions contained in the lease agreement. A failure to comply with any of the requirements, obligations, or duties outlined in the lease agreement shall be grounds for termination. The Housing Department shall issue a notice of breach to the resident promptly after the occurrence of such a breach, notify the resident of grievance procedures, and state the action required by the resident to amend the breach. If the breach is not corrected to the satisfaction of the Housing Department, a notice of termination shall be issued. The notice of termination shall be in accordance with the terms and conditions of the lease agreement.

4-5. *Rules for occupants.* The following rules for occupancy shall be included in the lease agreement.

a. *Principal residency requirement.* As a condition of occupancy, residents are required to use the home as a principal residence, living in the home a minimum of 10 months of the year. Any temporary absence that is longer than 14 days must be placed in writing prior to departure and approved in writing by the Housing Department.

b. *Determination of abandoned unit.* A home which has been unoccupied for a period of 30 days or more without Housing Department approval may be determined to be abandoned and *the resident determined to be* in breach of the lease agreement.

c. *Business use of home.* The use of the home for operation of a business may be approved by the Housing Department under the following conditions:

1. *Request to operate business.* A request to operate a business out of the home shall be made in writing prior to the business being established.

2. *No retail outlet.* No retail outlet shall be allowed although occasional customers are permissible.

3. *Factors to consider.* In making the decision, the Housing Department shall take into consideration the noise level, where the business will be located in the home, what type of business it is, and what impact the business will have on the home and the community. The operation of the business should not negatively impact the neighbor or surrounding community.

4. *Decision and Appeal.* A written decision shall be made within 30 days of the date of the request. A denial is may be appealed to the Housing Commission within 15 days of mailing of notice.

d. *Structural modifications.* No resident shall make any structural modifications or additions to the unit unless approved by the Housing Department. A request for modification shall be made in writing, and provide detailed information regarding the proposed change (e.g., plans/specifications). If the resident is in full compliance with the terms of the lease agreement, the Housing Department may approve the request.

1. *Approvable alterations and additions.* Modifications that are approvable include, but are not limited to, energy conservation items, and adding an out building.
2. *Resident expense.* All costs and expenses incurred by the resident in making modifications shall be solely the responsibility of the resident.
3. *Construction/Building Code requirements.* All construction shall be done in accordance with applicable building codes and ordinances. The Housing Department shall be given the opportunity to inspect the work during all phases of completion.

e. *Damage to Property.* Residents shall refrain from damaging, defacing, vandalizing, destroying or removing any part of the home, neighborhood, and community including all public and tribally owned property. The head of household and spouse are responsible for all family members and residents of their homes.

f. *Public disturbance.* Residents shall not engage in unlawful activities or activities which could cause a disturbance to neighbors and the surrounding community. The Housing Department shall maintain a record of all resident complaints.

g. *Responsibility to provide utilities.* Unless otherwise provided for, it is the responsibility of the resident to provide all utilities for the unit including deposits.

h. *Rent.* All rent payments are due on the first (1st) day of the month without billing/prior notice.

i. *Maintenance/appearance of the home and property.* The resident shall provide all basic upkeep of the home, keeping it in an acceptable condition and free from trash, clutter, and debris, including abandoned or junk cars. The Housing Department shall monitor the condition of the unit through periodic inspections and drive-bys. A car must have a valid license plate or it will be considered a junk car and the resident will be required to remove it from the property.

j. *Pet/Animal control.* Residents may have pets in accordance with the regulations set forth in Chapter 6. Where no regulations or written authorization has been granted, pets are prohibited.

k. Requirement to list occupants. The resident is required to list all occupants of the home on the family's admission application and provide updates for continued occupancy. Any change in occupants shall be reported to the Housing Department within fourteen (14) days.

l. Limitation to Visitation. A head of household must notify the Housing Department of a visitor's stay that is more than three days. Unless the visitor can prove the following circumstances, he or she shall not stay longer than three weeks in a six month period. If an individual stays longer than three weeks, he or she must be included as an occupant of the home and their income must be reported to the Housing Department and included in the household income.

1. If a visitor is required to remain in the home for more than three weeks in order to provide long term care to the resident, then the

following procedures apply:

i. The visitor shall contact the Housing Department prior to the expiration of the three-week limitation period and request an extension to remain in the household. The visitor shall describe the circumstances that apply to the request for extension, and the Housing Department shall have the right to request reasonable documentation in order to verify the necessity of long term in-home assistance.

ii. The Housing Department shall be authorized to grant a request for an extension up to an additional three month period. Any decision to grant or deny a request shall be in writing and shall be hand delivered to the individual making the request within five (5) days.

iii. If the request is denied by the Housing Department, the visitor shall have the right to appeal the decision to the Housing Commission within seven (7) days of the date the Housing Department delivered its decision to the individual making the request. The visitor may request that he be allowed to appear before the Commission at a closed session hearing, or may ask that the Housing Commission convene a hearing and render a decision based on the documentary evidence. The Housing Commission shall, in all events, hold the hearing within fourteen (14) days from the date it received the appeal.

iv. The decision of the Housing Commission shall be final.

2. Under extraordinary circumstances, the Housing Department and Housing Commission shall have the right to grant extensions for reasons other than providing long-term care to a resident in accordance with the above procedures.

m. *Resident responsibility for children and guests.* The resident and members of the household are responsible for all actions of the residents, guests, and children of the home and may be held accountable for such actions.

n. *Inspections.* The resident shall permit the Housing Department to periodically inspect the home and grounds.

o. *Counseling.* The resident and all adult members of the household are required to attend all mandatory-counseling sessions scheduled by the Housing Department. The resident may be required to attend individual counseling sessions as a condition of continued occupancy.

p. *Prohibition of illegal drug activities.* Any conviction, including Ano contest@ pleas, for a drug related criminal activity shall be grounds for immediate termination in accordance with the lease.

q. *Insurance.* The Housing Department shall provide required insurance on the unit structure including fire coverage of the home, NOT its contents. The resident will have to secure their own insurance for personal property/contents. It is the resident's responsibility to report all damages to the unit so claims can be processed in a timely manner.

r. *Re-certification requirements.* The resident is required to update relevant information regarding income, family composition, payment, rent calculations, etc. at a minimum on an annual basis. If any types of these changes occur in the household prior to the re-certification, the head of household must inform the Housing Department within seven (7) days. Failure to update this information within seven (7) days is grounds for eviction from the unit.

s. *Prohibition of subleasing.* The resident shall not take in boarders or sublet the unit.

t. *Security deposit.* The resident is required to pay a security deposit in the amount of one month's rent. The deposit shall be refundable at the time of move-out, provided that all conditions, obligations and requirements of the Housing Department and lease agreement have been satisfied.

u. *Other responsibilities/obligations under lease.* The resident is responsible for complying with all other responsibilities/obligations stated in the lease.

v. *Other Housing Department requirements.* The Housing Department may have additional requirements that would be necessary given each individual situation.

Section 5. Certification Process (See 24 CFR Part 1000.128)

5-1. *Annual reexamination.* Residents are required to re-certify on an annual basis. The Housing Department shall follow these procedures for the annual reexaminations.

a. *Scheduling.* The date for re-certification will be within 15 days before the end of the lease agreement. Re-certification includes verifying information needed to determine rent payments and other vital information concerning the family's composition and records. The Housing Department shall notify the resident in writing of the need to re-certify and set a date and time for the re-certification.

b. *Submission of application for continued occupancy.* At the time of the required re-certification, the resident shall be required to submit an application for continued occupancy. The resident shall sign the completed application and any attachments.

c. *Notice of changes.* Within 10 days of the completed re-certification process, the resident shall be informed in writing of any changes in the required monthly rent and the effective date of these changes.

d. *Adjustments to rent payments.* After the annual re-certification process is complete, an adjustment in rent amount will be made effective the month immediately following the re-certification. Increased rent adjustments will be made retroactively unless the Housing Department determines that re-certification was delayed by the Housing Department and that the resident was in no way at fault. Decreased rent adjustments will be made retroactively only if the Housing Department determines that the re-certification was delayed by the Housing Department and that the resident was in no way at fault.

e. *Other required information.* The resident may be required to submit additional information at re-certification if the Housing Department deems it necessary to complete the family's records or to assist in determining income and rent. Information that may be required includes, but is not limited to, social security cards (numbers) for new family members/occupants, divorce decrees, and receipts for various expenses.

f. Proof of Continuing Disability. The Housing Department shall request proof of continuing disability for occupancy in the tribally owned ADA-equipped homes at least annually.

5-2. *Interim re-examination.* The resident may request a re-examination of income and/or re-certification if circumstances have occurred which would affect the monthly-required rent by increasing or decreasing it. Examples include, but are not limited to, raises, loss of job, new job, and an additional occupant in the home. The Housing Department will process these requests on a first-come, first-served basis.

5-3. *Special re-examinations.* If it is impossible to determine a family's actual income

due to unstable conditions such as fluctuating or sporadic employment and income, the Housing Department may set a date for a special re-examination, when the family's economic condition is likely to be more stable. The Housing Department may use alternative methods of calculating annual income in cases where an accurate estimate of income cannot be arrived at or computed.

5-4. *Adjustments due to errors.* If the Housing Department made an error in calculating a resident's rent that was subsequently discovered by either the Housing Department or resident, a retroactive adjustment shall be made to the effective date of the improper adjustment. Errors which are caused by the resident may also be made retroactive if the Housing Department feels that the errors were committed willfully, in an effort to receive a reduced rent.

5-5. *Failure to comply or properly report information required.* If a resident fails to provide information or provides false information for a required re-certification, it is considered a breach of the lease and is grounds for termination of the lease agreement. Providing false information to or withholding information from the Housing Department may be considered fraud, which is a crime punishable under the law. If a resident fails to respond to the letter requesting re-certification information, a written notice will be sent out with a deadline for submission of information. If the resident fails to meet the deadline, the Housing Department shall notify the resident of the breach of the lease agreement and proceed with eviction procedures outlined in the lease agreement.

5-6. *Suspension of payments.* The Housing Department may suspend the required monthly rent for a specified period of time due to unusual circumstances, such as substantial rehabilitation/repair work being performed on the unit/house. The resident may request the suspension of all or part of the rent and the Housing Department shall approve or disapprove the request and notify the resident in writing of the determination.

Section 6. Home Inspections

6-1. *Initial Inspection.* At the time of initial occupancy, a move-in inspection shall be conducted with the Housing Department's inspector and the resident. The resident shall be permitted to have a representative of their choice present at the initial inspection to assist them. This inspection shall be videotaped.

6-2. *Documentation of conditions.* At the conclusion of the initial inspection, the resident shall sign an inspection report detailing any deficiencies in the home. The Housing Department shall correct the deficiencies within a reasonable amount of time not longer than 10 days.

6-3. *Homecare Procedures.* The Housing Department may provide the resident with resident training sessions that cover the obligations of the resident and proper home care procedures. Attendance at counseling sessions may be a mandatory requirement prior to occupancy.

6-4. *Annual inspection.* After the initial inspection is completed, inspections shall be conducted by the Housing Department on an annual basis.

a. *Notification.* The Housing Department shall provide the resident with written notification of the scheduled inspection at least 15 days prior to the date of the inspection. The notice shall state that the annual inspection is a requirement of the lease agreement and give the date and time of the inspection.

b. *Inspection procedure.* The Housing Department shall conduct a thorough videotaped inspection of the interior, exterior, and adjacent grounds of the home. The resident shall sign the inspection report, which contains the results of the inspection.

c. *Deficiencies.* If the inspection reveals any deficiencies in the condition of the

home, the resident shall be given 30 days to correct the deficiencies, at which time a follow-up inspection shall be scheduled.

d. *Follow-up inspection.* The Housing Department shall conduct a follow-up inspection to determine if the deficiencies have been corrected. The resident shall be notified and given the opportunity to be present at the inspection. If the resident has not corrected the deficiencies, the Housing Department may terminate the lease in accordance with the terms of the lease agreement, or perform the necessary work and charge the resident's security deposit account.

6-5. *Special inspections.* In addition to the annual inspection, special inspections may be required by the Housing Department if the resident has received unfavorable inspection reports in the past or if the Housing Department receives information that warrants a special inspection. Special inspections may be required as a condition of initial occupancy if the resident has a poor record of homecare at past residences. Written notice shall be provided 24 hours prior to the inspection.

6-6. *Move-out inspections.* Upon termination of the lease, the Housing Department shall conduct a videotaped move-out inspection. The resident or representative shall be given notice of the inspection so that they may be present at the inspection. The Housing Department shall prepare an inspection report which shall be signed by the resident. The report shall include an account of any deficiencies noted, a written estimate of the amount (dollar value) of work required, and a statement which gives the resident 14 days to correct the deficiencies. If the deficiencies are not corrected by the deadline, the Housing Department shall correct the deficient items and charge the resident's security deposit account for the work. If the amount of the work exceeds the resident's available balance, the Housing Department shall bill the resident for the amount outstanding.

Section 7. Transfer policy

7-1. *Requirements for transfer.* Any residents requesting a transfer to another home must do so in writing. All transfers are subject to availability of another home. The Housing Department may approve transfers for the following: size of unit not compatible, change in income level, employment and/or education. Two families may transfer (trade) units if both parties agree that it is in their best interest, and the Housing Department approves.

7-2. *Families must be up-to-date on rent.* In order to transfer, a family must be up-to-date on the rent for the home they are currently occupying.

7-3. *Maintenance and repairs performed.* All necessary repairs and rehabilitation of the unit shall be charged to the current resident prior to move-out. If the total amount of charges is unclear, a Agood faith@ estimate shall be provided by the Housing Department.

Section 8. Adoption; Amendment; Repeal

8-1. *Adoption.* This Chapter is approved by the Housing Commission on October 21, 2004 and approved by the Tribal Council on November 3, 2004[,by resolution # 04-1103-443].

8-2. *Amendment.* This regulation may be amended by the Housing Commission in accordance with the Constitution and any rules set forth governing amendment of regulation of the Little River Band of Ottawa Indians. Provided that, any amendments must be approved or adopted in the same manner as set forth in section 8-1.

8-3. *Repeal.* This regulation may be repealed by the Housing Commission in accordance with the Constitution and the Administrative Procedures Act; provided that,

any repeal must be approved or adopted in the same manner as set forth in Section 8.1.

8-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

8-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the >spirit= of this regulation rather than complete compliance is acceptable.

8-5. *Sovereign Immunity.* Nothing in this Regulation shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.

8-6. *Effective Date.* This Regulation and any amendments thereto shall be effective as of the date indicated in Tribal Council's implementing Resolution.