

# Housing Commission Regulations

Regulation # R700-01:HC-1

## Chapter 1. Eligibility Procedures for Low Income Elder and Tribally Owned Rental 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 this Chapter is to make sanitary, safe and uncrowded dwelling accommodations available to Tribal members of low income within the reservation and Tribal Service Area at rents that persons of low income can afford. These regulations are designed to serve as:

- a. A policy for the Housing Department to use in determining eligibility standards.
- b. A document that provides for consistent, equitable, and uniform treatment of clients.
- c. A basis for decision-making by Housing Department staff. A training manual for newly-hired or appointed staff.

1-3. *Application.* These regulations are 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 *shall* is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in this Chapter and the Housing Commission Ordinance are defined for the purposes of this Chapter.

2-1(a). *Disability.* For purposes of this regulation, a disability shall mean that the person applying is permanently substantially limited in a major life activity, as defined under the American With Disabilities Act and federal law.

2-2. *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 Substances Act).

2-3. *Elder Housing Unit* means a house located at Aki Maadiziwin designated for elder housing and other housing units of the Tribe may be designated as elder housing units.

2-4. *Elderly Families and Near elderly Families* means a family whose head (or his or her spouse), or whose sole member, is an elderly person or a near elderly person, respectively. Such terms include two or more elderly persons or near elderly persons living together, and one or more such persons living with one or more persons determined to be essential to their care or well-being. Such arrangements should be specified in the Indian housing plan.

2-5. *Elderly Person* means a person who is at least 62 years of age, provided that, for the purposes of Tribal owned rental units, elder person means a person who is at least 55 years of age.

2-6. *Family* means an adult living with or without children, an elder, a near elderly person, a disabled person, and/or a single person.

2-7. *Household* means all members of a family and any other persons residing within an Elder or low-income housing unit. All members of a household shall be clearly identified on the

application and lease documents on file with the Housing Department.

2-8. *Income* means income from all sources, for each member of the household, as determined in accordance with criteria prescribed by these regulations.

2-9. *Income of a live-in aide* that is eligible to be excluded from rental calculations shall mean only the income earned by an individual in the course of performing duties as a live-in aide, whether the source of that income be from the Tribe, the State, any other local agency, or from the individual(s) for whom services are being performed. Income of a live-in aide that is earned or received from any other source shall be included in the rental calculations.

2-10 *Live-In Aide* means a person determined to be essential to the care and well-being of a member of a Tribal family or household, as evidenced by written confirmation from a Board certified medical or psychological specialist.

2-10. *Median Income* means, with respect to an area that is an Indian area, the greater of -

- a. The median income for the Indian area, which the Secretary shall determine; or
- b. The median income for the United States.

2-11. *Near elderly Person* means a person who is at least 55 years of age and less than 62 years of age.

2-12. *Tribal rental housing* means a house owned by the Tribe, or managed by the Tribe, which is rented at market value.

2-13. *Tribal Low Income Rental Unit* means a house owned by the Tribe, or managed by the Tribe, which is rented to a Tribal Member at a lower rate than market value as determined by the Tribal Member's income.

### **Section 3. Eligibility Criteria**

3-1. *Criteria.* The applicant must meet the following criteria in order to be selected as preliminarily eligible to participate in the Elder housing units and Tribal rental housing programs. If the Housing Department determines an applicant is preliminarily eligible, that person shall be placed on a waiting list for a specific size rental unit. This initial screening includes the applicant fulfilling the four following criteria: Family Composition; Income Eligibility; the Need for Housing; and Tribal Membership of head of household or minor children living in the home.

a. *Family Composition.* An applicant must have the appropriate family composition to be eligible for these housing services.

1. *Elder Housing at Aki Maadiziwin.* For purposes of elder housing at Aki maadiziwin, family composition must be comprised of at least one person who is a Tribal member and is elderly or near elderly. In no circumstances should the occupancy of these homes exceed 3 persons. Other persons may reside in the home if they are:

- A. related by blood and elders;
- B. married to a qualifying individual;
- C. a significant other or domestic partner; or
- D. a live-in aide determined to be essential to the tribal elder's care and well being.

2. *Tribal Rental Housing and Tribal Low Income Housing.* For purposes of tribal rental and low income housing, and depending on the number of bedrooms in the unit, family composition is comprised of:

- A. Two or more persons who are related by blood, marriage, blended

family, extended family, or operation of law and the head of household is a Tribal member; OR

B. Minor child(ren) who are enrolled with the Tribe and reside with a head of household who is not an enrolled member of the Tribe; OR

C. A single person who is a Tribal member and is elderly or near elderly, handicapped, disabled, OR

D. A single person who is a Tribal member and lives alone and intends to live alone and does not qualify as an elderly family, OR

E. A live-in aide determined to be essential to the care and well being of a member of a Tribal family or household.

b. *Income Eligibility.* The household for Elder housing units must be within the maximum and minimum income guidelines to be eligible for the homes. The household for all Tribal housing units must be at income levels sufficient to meet rental payments. The applicant=s annual income will be determined by estimating the anticipated total income from all sources to be received by the head of household, spouse, and additional members of the family over the next 12 months.

1. *Maximum Income.* If the applicant must qualify as a low-income family, maximum income is defined as a family whose income does not exceed 80% of the median income for the area or the United States. Income limits are adjusted for family size and may be updated on an annual basis by the Department of Housing and Urban Development and are set forth in the Housing Department application documents.

2. *Minimum Income.* The applicant is required to satisfy obligations such as rent, administration fees, user fees, utilities, maintenance, etc. The applicant must demonstrate the ability to meet these requirements. The minimum income acceptable, adjusted by family size, is set forth in the Housing Department application documents. Income limits are adjusted for family size and inflation and may be updated on an annual basis as necessary.

c. *The Need for Housing.* Each person in the household must not already own a home. If accepted, the rental home must be the household=s primary residence for a minimum of 10 months of the year.

d. *Member Living in the Home.* A member, whether head of household or minor child, must live in the home.

3-2. *Income Included/Excluded from Calculation.* Income means income from all sources, for each member of the household, except that the following amounts may not be considered as income under this paragraph:

a. Any amounts not actually received by the family.

b. Any amounts that would be eligible for exclusion under Section 1613(a)(7) of the Social Security Act.

c. Any amounts received by any member of the family as disability compensation under 38 U.S.C. 11, or dependency and indemnity compensation under 38 U.S.C. 13.

d. *Income* is defined according to the following calculations:

1. *Income as defined by the Department of Housing and Urban Development in Section 8.* Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each

additional member of the family, including all net income derived from assets, for the twelve month period following the effective date of initial determination or re-examination of income, exclusive of certain types of income as provided in paragraph (2) of this definition. Annual income includes, but is not limited to:

A. The full amount, before any payroll deduction, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

B. The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family;

C. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in the definition of exclusions. Any withdrawal of cash or assets from an investment will be included in income except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

D. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;

E. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;

F. Welfare assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

1. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
2. The maximum amount that the welfare assistance agency could, in fact, allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be in the amount resulting from one application of

- the percentage;
- G. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling; and
- H. All regular pay, special pay and allowances of a member of the Armed Forces.
- I. Annual Income does not include:
1. Income from employment of children (including foster children) under the age of 18 years;
  2. Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone);
  3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
  4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
  5. Income of a live-in aide, as defined in Sections 2-9 and 2-10 of this Chapter;
  6. The full amount of student financial assistance paid directly to the student or to the educational institution;
  7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
  8. Amounts received under training programs funded by HUD;
  9. Amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  10. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  11. A resident service stipend, which is a modest amount (not to exceed \$200 per month) received by an Indian housing resident for performing a service for the IHA, on a part-time basis, that enhances the quality of life in Indian housing. Such services may include, but are not limited to fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;
  12. Incremental earnings and benefits resulting to any family member from the participation in qualifying state or local

employment training programs (including training programs not affiliated with local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training;

13. Temporary, nonrecurring or sporadic income (including gifts);

14. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who during the Nazi era;

15. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

16. Adoption assistance payments in excess of \$480 per adopted child;

17. Deferred periodic amounts of supplemental security income and social security benefits that are received in a lump sum amounts or in prospective monthly amounts;

18. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes on the dwelling unit;

19. Amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;

20. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. The following types of income are subject to such exclusion:

a. The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977;

b. Payments to volunteers under the Domestic Volunteer Service Act of 1973;

c. Payments received under the Alaska Native Claims Settlement Act;

d. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;

e. Payments or allowances made under the Department of Health and Human Services' Low Income Home Energy Assistance Program;

f. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians;

g. 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;

- h. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs;
- i. Payments received from programs funded under Title V of the Older Americans Act of 1965;
- j. Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation;
- k. Payments received under the Maine Indian Claims Settlement Act of 1980;
- l. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for cost incurred for such care) under the Child Care and Development Block Grant Act of 1990; and

- m. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakama Indian Nation or the Apache Tribe of Mescalero Reservation (P.L 95-433);
- n. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- o. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 1060(c));
- p. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931 (a)(2));
- q. Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- r. Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- s. Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437A) by section 2608 of the Housing and Economic Recovery Act of 2008 (P.L 110-289);
- t. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F. Supp. 2d 10 (Oct. 5, 2011 D.D.C.), as provided in the Claims Resolution Act of 2010 (PL. 111-291). This exclusion will apply for one year from the time that payment is received;
- u. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended)

comparable disaster assistance provided by States, local governments, and disaster assistance organizations shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs (42 U.S.C. 5155(d)).

3-3. Eligibility for ADA-Equipped Rental Units. In order to be eligible for placement in a Tribal ADA-equipped rental unit, the Tribal Member must:

A. Be a person with a permanent disability under the following ADA definition:

1. Show a physical or mental impairment that substantially limits one or more of the major life activities; and
2. Have a record of such impairment; or
3. Be regarded as having such an impairment.

B. The Applicant must submit a Request to the Housing Department for consideration for placement in an ADA-equipped unit.

C. The Applicant shall be required to have a qualified physician or other professional verify that he or she requires the accommodation due to the disability. The Housing Department shall provide the Applicant with the form to be completed by the physician or other health care professional.

#### **Section 4. Application Process**

4-1. *Application Form.* The application is the basic record of each family/person applying for housing. Each applicant must provide all of the necessary information and accurately complete all requested information on the application. The applicant must certify that all information contained in the application is true and accurate to the best of his knowledge. The applicant and all household members of legal age and older must sign a release of information request. All information or any statements made by the applicant are subject to verification.

4-2. *Additional documents required for admission.* The Housing Department shall require the following documents to be eligible to rent a home:

a. *Proof of Age.* If age is a qualification to occupy a home (i.e. Elder Homes), then proof of age is required. Acceptable forms for verification include a birth certificate, driver license, or if neither one of those are available, an affidavit.

b. *Minor Head of Household.* If the Head of Household applying for services is a minor, then a court order emancipating the minor as an adult is required.

c. *Proof of Residency.* The Housing Department restricts housing assistance to Little River citizens, U. S. citizens and non-citizens who have eligible immigration status. The applicant must verify citizenship or non-citizen eligibility in order to receive assistance. An example of this type of verification includes a driver's license.

d. *Social Security Number Requirements.* The applicant must furnish the Housing Department with social security numbers and/or copies of social security cards for each family member or person listed on the application. For minor children 6 years of age or under, a written certification may be submitted in lieu of a social security card.

e. *Proof of Disability.* If the applicant is applying for housing in one of the Tribe's

ADA-equipped rental units, then the Housing Department shall require proof of disability in accordance with Section 3-3

4-3. *Receipt of Application.* Immediately upon receipt, the application shall be date stamped, time stamped, and initialed by the Housing Department staff. If additional information is necessary, a new date and time stamp shall be placed in the file. Completed applications may be mailed or delivered in person. Applications shall be received at the Housing Department office located at the following addresses:

- a. Mailing Address: 2608 Government Center Drive  
Manistee, Michigan 49660
- b. Physical Address: Aki Maadiziwin – Community Center  
Manistee, Michigan 49660

4-4. *Review of Application.* Each time the Housing Department receives a new application or additional information to complete an application, it shall review the information within 3 weeks from the date it is received. Based on this review, the Housing Department shall make one of the following decisions:

- a. *More Information Required.* After reviewing the initial application or new information is received, the Housing Department determines that more information is required, a letter will be sent by certified mail within the three-week review period and shall inform the applicant of what additional information is necessary in order to process the application. The application shall not be considered complete until the Housing Department sends a letter to the applicant informing him that the application is complete and pending. If additional information is not received within 30 days of when the request was sent, the file shall be moved to inactive files pursuant to Section 8-1(d).
- b. *Completed Application.* The Housing Department shall send a letter to the applicant stating the date that the application is considered complete.
- c. *Failure of Housing Department to Process the Application Within Time Period Required.* If the Housing Department fails to complete the application review and send notice to the applicant within 3 weeks of receiving it, then the applicant shall retain the filing date when the Housing Department received that last information. The Housing Department shall continue to contact the applicant for additional information.

## **Section 5. Verification of Application Information**

5-1. *Verification Procedures.* In order to determine that data upon which determination of family composition, income eligibility, the need for housing, established disability if applicable, Tribal membership requirements and rents to be charged are accurate, such data must be verified.

- a. *Third Party Verification.* The Housing Department shall make every effort to obtain written verification by a third party.
- b. *Other Verification.* If third party verification cannot be obtained, the Housing Department shall request the applicant, including all adult household members, to submit relevant information, provided that the submission contains a notarized statement attesting that the information contained therein is true and accurate to the best of the person=s knowledge and belief.

5-2. *Types of Verification Records.* The Housing Department shall compile accurate verification records for each household, consisting of, but not limited to, the following:

- a. Letters or other statements from employers and other pertinent sources giving

authoritative information concerning all amounts of income.

b. Copies of documents in the applicant=s possession that substantiate his/her statements.

c. Certified statements, or summary data from bank account, from self-employed persons, and from persons whose earnings are irregular, such as salesmen, taxi drivers etc., setting forth gross receipts, itemized expenses and net income.

d. Memoranda of verification data obtained by personal interviews, telephone, or other means, with source, date reviewed and the person receiving the information clearly indicated.

e. Verification from other government assistance programs, including but not limited to, General Assistance, Supplemental Security Income, Disability, Unemployment Compensation, and Food Stamps.

f. Doctor's verification of disability if the applicant is seeking housing in a Tribal ADA-equipped rental unit.

### **Section 6. Determination of Eligibility**

6-1. *Applicant Determined Eligible.* Upon receipt of a completed application, the Housing Department will make a determination of eligibility. An applicant determined to be eligible shall be promptly notified in writing and placed on the appropriate rental unit program waiting list.

6-2. *Applicant Determined Ineligible.* An applicant determined to be ineligible shall be promptly notified in writing. The notice shall state the reason(s) for the ineligibility and advise the applicant of his/her right to appeal.

6-3. *Appeal.* The appeal must be requested within 15 calendar days of the date of the notice. Appeals are presented to the addresses identified in section 4-3. The Housing Department shall forward all appeals to the Chairperson of the Housing Commission who shall schedule a hearing for such appeal and provide notice to the applicant.

### **Section 7. Waiting List Administration**

7-1. *Waiting List Procedures.* The Housing Department shall maintain a waiting list of names for the appropriate housing rental unit, separate and apart from any other Housing Department program waiting list. The list shall be composed of applicants who have been determined to be eligible. The eligible applicants will be placed on the waiting list in order that the completed application is received.

7-2. *Updating the Waiting List.* The Housing Department waiting list shall be updated on a continual basis. It is the responsibility of each applicant to update his or her application at least bi-annually. In order to remain on the waiting list, an applicant must continue to update his/her application and remain eligible for the rental unit program. The Housing Department shall inform the applicant at 5 months of the need to update his application within 4 weeks of receipt of the request.

7-3. *Removal from Waiting List.* Applicants shall be removed from the waiting list for the following reasons:

a. *Failure to Update Application.* Applicants who fail to update their application within twelve (12) months of their most recent eligibility date will be placed in the inactive file and lose order of placement on the waiting list.

b. *Written Request for Removal.* Any applicant on the waiting list who wishes to be removed from the list must submit a written request to the Housing Department. Otherwise, no eligible applicant may be removed from the waiting

list except for failure to update in a timely manner.

### **Section 8. File Maintenance**

8-1. *Application File.* The Housing Department shall maintain a file for each family completing an application. All information supplied by the applicant, verification of information, and all relevant correspondence with the applicant, shall be contained in the file. Files will be placed in one of four categories.

a. *Eligible.* This file contains those applications that have met the initial eligibility requirements for one of the rental units and have been placed on that unit=s waiting list. The applicant is responsible for making corrections or updating the application on a bi-annual basis. Failure to update an application for a period of 6 months is grounds for placing the application in an inactive file and removing the household from the waiting list.

b. *Ineligible.* This file contains those applications that have not met initial eligibility requirements and have been determined to be ineligible for the low-income rental units.

c. *Incomplete/Pending.* This file contains those applications that have not been sufficiently completed or verified for a determination of eligibility to be made. Applicants submitting an incomplete application will be notified and given 30 days to submit the missing information. If the information is not submitted in a timely manner, the application will be placed in the inactive file.

d. *Inactive.* Applications which are not completed and the applicant has not responded to the Housing Department=s request for more information within 30 days pursuant to Section 3-4(a), shall be placed in the inactive file. This file shall also contain those applications that have been completed and placed on the waiting list but have not been updated within 6 months.

### **Section 9. Adoption; Amendment; Repeal**

9-1. *Adoption.* This revised Chapter is approved by the Housing Commission on January 31, 2014 and approved by the Tribal Council on March 5, 2014 by resolution #14-0305-052.

9-2. *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 approved or adopted in the same manner as set forth in section 9-1.

9-3. *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.

9-4. *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.

9-5. *Effective Date.* This Regulation shall take effect upon approval by Tribal Council.