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**SAMISH INDIAN NATION HOUSING PROGRAMS POLICY**

**Samish Tribal Code §13.200**

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## **SAMISH INDIAN NATION HOUSING PROGRAMS POLICY**

### **Samish Tribal Code §13.200**

#### **§ 13.200**

#### **GENERAL PROVISIONS**

This Policy pertains to the following programs funded by the Indian Housing Block Grant (IHBG):

The Homeownership Program, by which the Homebuyer qualifies for a Mortgage with a lender;

The Rental Assistance Program, by which the qualified applicant receives Tenant Based Rental Assistance;

Rehabilitation / Repair Program, by which the qualified applicant receives Assistance.

#### **(a) Adoption**

The Admission Policy is adopted by Samish Tribal Council pursuant to Council Resolution and may only be amended by the Samish Tribal Council.

#### **(b) Interpretation**

##### **(1) NAHSDA Regulations**

Except as set for in Section 1.2.2, if any provision of these policies conflicts with the regulations adopted by the Department of Housing and Urban Development (HUD) to implement the Native American Housing and Self-Determination Act of 1996 (NAHSDA) (24 CFR§ 1000), the federal regulations shall prevail.

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**(2) Definitions**

The Housing Department relies upon definitions set forth in Appendix A of these policies in its interpretation and application of these Policies. In situations in which there is a difference between a definition contained in the Policies and Appendix A, the definition set forth in the Policies shall control.

**(c) Housing Standards**

The following standards will apply to all housing programs offered by the Samish Housing Department.

**(1) Minimum Housing Quality Standards (HQS)**

**(A)** The Samish Housing Department will utilize the housing quality standards adopted by the Tribe in determining if the unit is a decent, healthy and safe place to live or if the unit is safe, sanitary and in good repair.

**(B)** The Samish Housing Department will provide the participant with information to assist them in finding housing that meets the minimum requirements for housing assistance through the Department.

**(2) Inspections**

The Samish Housing Department will conduct or arrange to have conducted, a pre-occupancy/occupancy inspection utilizing the adopted HQS and inspection form to ensure the unit is a healthy, safe, and decent place (or safe, sanitary and in good repair) to reside prior to approval of assistance payments. If the unit does not pass the inspection, assistance can be approved if the owner/landlord is willing to make necessary repairs to bring the unit up to the minimum requirements. If the owner/ landlord is not willing to make the repairs required to bring the unit up to the minimum requirements, the Housing Department may not provide assistance to the applicant.

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**§13.201**

**ELIGIBILITY**

**(a) Indian Families**

**(1) Eligibility**

Except as specified below, to be eligible for assistance through the Tribe's Housing Program, at least one member of the family applying for assistance must be an enrolled member of a federally recognized Indian tribe.

**(2) Non-Indian Families**

Non-Indian applicants may be eligible for housing assistance through the Housing Department provided that the Housing Department has determined that the presence of the non-Indian family in the Samish community is essential to the well-being of the Samish community and that the need for housing for the non-Indian family cannot reasonably be met without assistance this program. The Housing Department must obtain the approval of the Samish Tribal Council on each non-Indian applicant prior to offering any services through the Tribe's Housing Program.

**(b) Income Requirements for the Tribe's Homeownership, Rental Assistance and Rehab/repair Programs.**

**(1) Maximum Income**

Except as provided below, the family's annual income cannot exceed the applicable income limits for admission established by federal regulations. The annual income definition used shall be the definition, as defined by the regulations, which is most advantageous for the applicant family. The income guidelines are set forth in Appendix B of these Policies.

**(2) Exception to maximum income limit**

An applicant family's income must fall within the maximum income limit at the time the applicant signs the housing agreement with the Housing Department. If the applicant family's income increases above the

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maximum income limit after they have entered into an agreement with the Housing Department for housing, they will become ineligible for housing assistance through the Housing Program unless there are "household" slots available and this activity is written in the current years Indian Housing Plan for no more than ten percent of the households, in keeping with allowable income limit exceptions under 25 C.F.R. § 1000.110.

Each family must submit a change of circumstance to the Housing Program if their earned or fixed income changes, family size change and/or address change.

### **(3) Minimum Income for Homeownership Program**

To be eligible for the Homeownership Program, the family must have sufficient earned income to qualify for private financing with the assistance provided through the Samish Housing Department's Down Payment Assistance Program. The family's income also must be reliable and ongoing and subject to verification by the Housing Department.

### **(4) Sporadic Income**

Sporadic income is income earned outside of an individual's usual and accustomed source/sources of income. Sporadic income is exempt from the required calculation of an applicant's annual earned income.

Sporadic income includes but is not limited to income earned that is not permanent or reliable; income that is seasonal; and any other income that the individual does not rely upon to meet his /her basic needs. The Housing Department will evaluate an individual's circumstances to determine whether income may be considered "sporadic" as that term is used in these policies.

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**(c) Additional Criteria for Admission**

**(1) General Rule:**

A family will not be eligible whose conduct in present or prior housing is likely to diminish the health, safety, welfare, or quiet enjoyment of the neighborhood, or adversely affect the neighborhood environment, the physical condition of the home or neighborhood. The Housing Department will review and assess applicant families' past habits and practices with respect to housing occupancy as part of its determination of the applicant family's eligibility for assistance. Applicants must agree to and consent to a background check including but not limited to references from previous landlords, criminal history, credit history and employment history.

**(2) Additional Factors:**

The following factors are considered to disqualify an applicant family for housing assistance through the Housing Department. The factors listed here are not an exhaustive list and the Housing Department may consider all relevant factors in its decision on an applicant family's application for assistance.

**(A) Outstanding Debts**

A family who has an outstanding debt to the Samish Indian Nation and any of its departments and/or programs, any other Tribes, HUD, RSDA or any landlord, or financial institution, or any utility company that would prohibit the family from obtaining utility services at the home or rental unit that would be obtained with the Housing Program assistance will not be eligible for assistance from the Housing Program. In the event an applicant family has an outstanding debt, the family must enroll in a debt counseling program to become eligible for assistance through the Housing Department, and if offered housing services, must also prove ongoing active debt repayment.

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**(B) Fraud**

An applicant for assistance or a head of household, or individual responsible for payment of rent or mortgage who has committed fraud as a participant or applicant in any tribal, federal or state program is not eligible for the housing program.

**(C) Drug-related and Criminal Activity**

**(i)** Except as specified in this Section, the Housing Department will not provide assistance to an applicant if any member of the family who will reside in the housing has been convicted or was evicted from any assisted housing because of drug-related criminal activity during the three years prior to their application to the Housing Department for housing assistance.

However, the applicant may receive housing assistance if the applicant provides documentation to the Housing Department that the individual with the history of drug related criminal activity has successfully completed a certified rehabilitation program, provides proof of their completion and ongoing sobriety; and that the individual no longer is involved in any drug related criminal activity. The Housing Department must verify the information submitted by the applicant.

**(ii)** The Housing Department may provide assistance to an applicant after the three-year period has run, if the applicant clearly establishes and the Housing Department determines, that in fact the person has successfully completed a certified rehabilitation program, provide proof of completion and can be verified by third party to the Housing Department that he/she has completed such treatment; and the person no longer participates in any drug-related criminal activity.



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**(iii)** Under no circumstances will a person that has been convicted of a felony of sexual assault, violence against another person, or drug distribution be admitted into the housing program.

**(D) History of Violence**

No family will be admitted who has a member who would be residing in the housing unit that has a recent history of engaging in violent criminal activity, which is defined as any criminal activity has one of its elements the use, or threatened use of physical force against a person or the property of another. In its consideration of this factor, the Housing Department will take into consideration the length of time since the last evidence of such activity, and the record of rehabilitation efforts on behalf of the family member. However, if anyone in the household does engage in violent activity while in the Housing Program, the whole family may and could lose any assistance from the Housing Department.

**(E) False Statements**

Any applicant or participant who knowingly makes false statements or provides false information or records to the Housing Department regarding their housing application or review of housing assistance shall be determined ineligible /terminated from the program. The Housing Department will also require an applicant or participate to repay any housing assistance obtained based upon false statements, information or records and any grant funding received by the applicant or participant shall be repaid by the applicant or participant along with any fines assessed by the granting agency.

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**(F) Eviction**

Applicants who have been evicted from a housing program; and/or have an eviction on a background check and/or any other record regarding an eviction are not eligible for housing assistance from the Housing Department. However, if the applicant has paid any and all debts from the eviction (s) and can demonstrate three consecutive years of good rental history since any such eviction and they meet all other guidelines for housing assistance under these policies, the applicant may be eligible for housing assistance from the Housing Department. The Housing Department will document in the applicant's file the proof provided by the applicant of three years of good rental history since any eviction.

**(G) Special Circumstances**

Samish tribal members whose background checks required under 13.201(c)(1) reveal negative credit or rental history but who otherwise meet the requirements for admission into the Housing Program may qualify for the Samish Housing programs if the tribal member is working with another program within Samish Health and Human Services or with another government's Social Service provider and can provide documentation of the applicant's participation in such services. The decision to provide housing services will be made by the Housing Department and the Health and Human Services Director.

**§ 13.202**

**ADMISSIONS**

**(a) Application**

**(1) Open Process**

Unless the Housing Department has closed the waiting list for housing assistance, the Department will accept applications from all enrolled native families seeking participation in any of the Housing programs.

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**(2) Applicant responsibilities**

The application constitutes the basic record of each family applying for participation. Each applicant will be required to supply the information requested on the Housing Department's application form and to sign the application, attesting to the information provided. Applicants placed on the wait list are required to respond to the Housing Department's requests for additional information or to provide updated information for the housing application as a condition of remaining on the wait list and as a condition of admission to the Housing Program.

**(b) Eligibility Determination**

**(1) Initial Determination**

The Housing Department shall make an initial determination based on the application for housing assistance on an applicant's eligibility to receive housing assistance. The applications for all of the Housing Programs are attached as Appendix C to these Policies. Applicant shall be found to be "apparently eligible", based on the information provided on the application for housing assistance. A client's application is not considered complete and a determination of "apparently eligible" will not be made until all required documentation has been received by the Housing Department.

**(2) Family Determined Apparently Eligible**

If an applicant is determined apparently eligible, the applicant shall be placed on the appropriate waiting list and receive written notice of funding availability for assistance and the steps the family must take to receive assistance from the Housing Department.

**(3) Family Determined Ineligible**

If at any time during the application process the Housing Department determines that the applicant is ineligible, the Department shall send written notice to the applicant of the determination that they are no longer eligible for assistance from the Department. The Department shall state the reasons for the determination that the applicant is no longer eligible for assistance.

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The Department shall also include in the notice information about other programs(s) for which the applicant may be eligible and advise the applicant of the right to request an informal hearing according to the Housing Department's Grievance Procedures. The applicant will be entitled to copies of their file if they request a request in writing for a copy to the Housing Department.

#### **(4) Final Determination**

The Housing Department shall verify that all applicants determined to be "apparently eligible" qualify under the applicable eligibility criteria and document the applicant's eligibility to receive the housing assistance in the applicant's file. The Department will send a letter to the applicant notifying them that the Department has determined that they are eligible for housing assistance, pending passing background checks on all household members, age eighteen (18) and older. The Housing Department shall verify an applicant's eligibility not more than sixty (60) days prior to funding availability.

#### **(c) Wait List**

The Housing Department will keep a waiting list for its housing programs that is maintained by date and time of application. If a tribal preference applies to a housing program; the wait list for that program may be sorted by that preference.

##### **(1) Updating the Waiting List**

The Housing Department will periodically update the pool of active applications for housing assistance by requiring all applicants on the waiting list to indicate whether they still require housing assistance and want to remain on the waiting list. The Housing Department shall send each applicant on the waiting list a letter by certified mail return receipt and request the applicant to respond in writing to the Department within 30 days from the date the letter was sent by the Department whether they wish to remain on the waiting list.

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If an applicant fails to respond to the Department's letter within that time period, the Department will remove the applicant from the waiting list. The applicants can reapply at a later date and will be placed at the bottom of any waiting lists for the particular housing program.

**(2) Closing the Waiting List**

If the number of families on the waiting list is such that there is no reasonable prospect that additional applicants could be served within the next year, the Housing Department may suspend the acceptance of additional applications in the particular program.

**§13.203**

**SELECTION PROCESS**

**(a) Selection for Assistance**

The Housing Department will apply the following preferences for assistance in each of the housing programs.

**(1) Order of Selection**

The Housing Department will select applicants for assistance in the following order, subject to the limitation below:

- (A)** Enrolled tribal members by date and time of application; and then;
- (B)** Other Native Americans by date and time of Application; and then;
- (C)** All other applicants.

**(b) Order of Selection – Exceptions**

**(A)** Qualifying elderly families, as defined, shall receive preference for: For purposes of the policies, the term elderly shall mean a person at least 62 years of age or older and Near Elderly shall mean a person who is at least 55 but less than 62 years of age. Elderly and

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Near Elderly family means a family whose head of household or his/her spouse or whose sole member is an elderly or near elderly person. [25 USC 4103]

- (i) Rental Assistance;
- (ii) Rehab / Repair Assistance.

**(C)** Qualifying families with one or more persons with a disability shall receive preference for:

- (i) Rehab/ Repair for handicap accessibility;
- (ii) Rental Assistance for handicap accessible Housing.

**(D)** Qualifying Veterans of Foreign Wars shall receive preference for:

- (i) Down Payment Assistance;
- (ii) Rental Assistance;
- (iii) Rehab / Repair Assistance.

**(c) Order of Selection – Down Payment Assistance**

In addition to the other preferences contained in these policies in selecting applicants for the Down Payment Assistance Program, the Housing Department will apply the following preferences:

**(A)** First time Homebuyer;

**(B)** Eligible qualifying applicants for Mortgage Assistance and meeting the preferences listed in (a) above and any federal / tribal requirements.

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## **§13.204**

### **DOWN PAYMENT ASSISTANCE**

#### **POLICY STATEMENT**

The purpose of the Samish Indian Nation's Down Payment Assistance program is to provide income eligible members of the Samish Indian Nation with affordable homeownership financing opportunities to help improve the quality of life in the tribal communities.

The program provides a onetime grant of \$10,000 to a qualified homebuyer for down payment assistance for the purchase of a single-family dwelling in habitable condition. The purposes of this grant is to enable otherwise qualified homebuyers to secure financing for a home loan that otherwise would not qualify due to the lack of sufficient down payment funds.

The Samish Indian Nation's Down Payment Assistance Program shall comply with all applicable regulations of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) along with other applicable rules and regulations and Total Development Cost as required for each county.

#### **(a) Grant Requirements**

##### **(1) Minimum Income for Homeownership Program**

To be eligible for the Homeownership Program, the family must have sufficient earned income to qualify for private financing with the assistance provided through the Samish Housing Department's Down Payment Assistance Program. The family's income also must be reliable and ongoing and subject to verification by the Housing Department.

##### **(2) Maximum Income**

The family's annual income cannot exceed the applicable income limits for admission established by federal regulations. The annual income definition used shall be the definition, as defined by the regulations, which is most advantageous for the applicant family. Persons whose family income is over 80% are not eligible to receive grants under this program. The income guidelines are set forth in Appendix B of these Policies.

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### **(3) Location of Residence**

The qualifying applicant shall be required to reside in the home as their principal place of residence for a period of five (5) years after receipt of assistance as a condition of approval. The property purchased must also be within the Tribe's ten (10) county service area: Skagit, Whatcom, Island, Kitsap, Snohomish, King, Jefferson, Clallam, Pierce and San Juan Counties and legally zoned for residential use. All property and homes must be inspected and approved by a qualified home inspector prior to the award of a down payment assistance grant by the Housing Department. If the applicant is not required to obtain such an inspection as part of their home loan application, the Housing Department will pay for the inspection as part of its down payment assistance grant application.

### **(4) Property Taxes / Insurance**

The qualifying applicant is required to pay annual property taxes, insurance and extended coverage as required by the lending institution. The annual amounts shall be included in the monthly mortgage fee.

### **(5) Mortgage Application**

A copy of the executed and lender receipted final Mortgage application must be provided to the Housing Department at the time of application for down payment assistance.

### **(6) Mortgage Counseling Classes**

Eligible / Qualifying applicants are required to attend mortgage counseling and/or any First Time Home Buying Program classes approved by the Housing Department prior to the award of a down payment assistance grant under this program. The applicant must provide a certificate of completion or other documentation demonstrating the completion of the course as part of the final documentation required under the application process.

### **(7) Payment process**

In order to award the down payment assistance grant, the Housing Department must:

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- (A)** Verify the applicant has submitted all required documentation for their application;
- (B)** Verify the applicant qualifies for the down payment and document the basis for the determination that the applicant qualifies in the applicant's file; and,
- (C)** Complete all required Tribal and Grant documentation required for the assistance including an Environmental Review.
- (D)** Coordinate and finalize all documentation and authorizations required by the financial institution issuing the mortgage.

Upon completion of these steps and any additional steps required for a particular applicant and/or loan, the Housing Department will request payment of the down payment grant from the Samish Accounting Department to be released to the applicant's lender.

**(b) Deed of Trust Requirement**

The Samish Housing Department shall file a (deed of trust) on behalf of the Samish Indian Nation against the home at the time of grant award for the useful life of the unit as that term is defined in the Tribe's Indian Housing Plan. As set out in the Tribe's Indian Housing Plan, the grant shall be reduced at 20% per year for five years, reducing the grant award to -o- after 5 years at which time the deed of trust will be dissolved. The Housing Department is responsible for filing, monitoring and removing the deed of trust under this Program.

**(c) Emergency Mortgage Assistance**

- (A)** If a client receives down payment assistance from the Housing Department and they are experiencing difficulty paying their mortgage on the home purchased with the down payment assistance grant within the first five years that they own the home, they may request emergency mortgage assistance from the Department.

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This assistance is available to clients who experience loss of household income due to illness or changes in employment of the client or members of the client's immediate family such that it affects the client's ability to meet his/her monthly mortgage obligation.

**(B)** In order to obtain mortgage assistance, the individual must submit an application to the Housing Department with a statement of need which must include that they have tried to obtain assistance from other resources. The application must also contain information regarding the mortgage payment, amount in arrears, total family income and monthly budget.

**(C)** The Housing Department will review the application and determine whether the assistance will be provided. If the Housing Department grants assistance under this program, it will meet with the individual to establish a budget and set the number of days that the assistance will be provided.

**(D)** The amount of assistance provided under this section will be seventy percent of the individual's monthly mortgage payment.

**(E)** The Housing Department may provide assistance for ninety (90) days to the persons whose applications for assistance is approved.

**(F)** The Housing Department will offer budget and credit counseling services to families as a condition of an award of a grant under this program. Applicants must accept this service a condition of the grant award.

**(G)** The Housing Department may only provide this assistance if funds are available for the program under the Housing Plan.

**(H)** The Housing Department is unable to make any back payments on any monies that are in arrears.

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**§13.205**

**REHAB / REPAIR ASSISTANCE**

**POLICY STATEMENT**

The Tribal Council of the Samish Indian Nation recognizes the need to establish procedures regarding the rehabilitation of homes owned by Samish tribal members who are unable to acquire assistance from other agencies. The Samish Housing Department will provide assistance, within approved budget amounts, for the rehabilitation of homes that are owned by enrolled members of the Samish Indian Nation and meet federal /and tribal housing laws, regulations and policies. The goal of the assistance provided under this program is to eliminate substandard housing conditions for qualified Samish members and their families. Eligible tribal members may receive one home repair assistance grant under this program. However, if they do not use the complete grant at that time the applicant may submit an application for assistance to use the remaining portion of the grant on another home repair project.

**(a) Grant Requirements**

In addition to the specific requirements listed below, to qualify for assistance under this program, the condition of the home must be such as to create a serious safety or health hazards to the occupants by reason of structural deficiencies or of continuous dampness or exposure brought about by neglect or dilapidation. The grants cannot be used for remodeling of the home but may be used by the homebuyer to accommodate for the disability of the homeowner or family member who resides in the home or to purchase new appliances and/or tenant conveniences for ADA accessibility.

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Each applicant for assistance under this program must provide proof of the following as part of their application for assistance:

**(1) Ownership and Location of Home**

An applicant must provide documentation demonstrating that they own the home and that it is located on fee simple land within the Tribe's service area. The documentation may be mortgage statement, title, purchase and sale agreement or any other document identifying an applicant family member as the owner of the home. The property must also be the primary residence of the applicant family and cannot be multi-family or income generating. It must also be zoned for residential use.

**(2) Home Fire & Extended Insurance Coverage**

An applicant for assistance under this program is required to provide proof of fire and extended insurance coverage of the home applied for, as a condition of approval. The applicant is required to submit proof of fire and extended insurance coverage annually to the Housing Department for five years after purchase of the home.

**(3) Property Taxes**

The homeowner/applicant is required to provide proof of payment of annual property taxes assessed by the governing municipality and shall be required by granting authority to pay annually for five years and encouraged to continue paying thereafter.

**(3) Grantee Certification**

As a condition of accepting the grant under this program, the applicant must certify his/her intent to reside in the home as their principal place of residence for at least five years from the receipt of the grant and agree to repay the grant if they sell the home within that five year period.

**(b) Maximum Funding Available to Qualifying Applicants**

The maximum grant available to qualified applicants under this program is up to \$20,000 for conventional and manufactured homes. Qualified applicants must be low income, which means that the family income is 80% or less of the median income for the area.

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Persons whose family income is over 80% are not eligible to receive grants under this program. A copy of the income guidelines is available at the Housing Department or attached as Appendix B. Grants under this program are awarded based a sliding scale based upon income level of the applicant:

- (1) Applicants whose family income is 50 % or less of the median income may be awarded up to \$20,000.
- (2) Applicants whose family income is between 51% to 60 % of the median income may be awarded up to \$15,000.
- (3) Applicants whose family income is 61% to 80% may be awarded up to \$10,000.

**(c) Lien Requirement**

The Samish Housing Department shall file a lien on behalf of the Samish Indian Nation against the home at the time of grant award. As set out in the Tribe's Indian Housing Plan, the grant shall be reduced at 20% per year for five years, reducing the grant award to -0- after 5 years, at which time the lien will be dissolved.

**(d) Determination for Repairs Authorized under Grant**

Once applicant has qualified for assistance under this program, a certified housing inspector retained by the Housing Department shall evaluate and assess the home for necessary repairs. The Housing Department shall prioritize the grants for rehabilitation based upon the following order:

- (1) Addressing conditions in a home which threaten the health and safety of the home's occupants;
- (2) Upgrading a home to meet 504 Accessibility standards for an elderly or disabled occupant;
- (3) Addressing structural deficiencies in a home;
- (4) Reducing Overcrowding.

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**(e) Written Report**

The Housing Department shall prepare a written report of repair work required to bring the home to standard condition and provide a copy of the report to the homeowner/applicant. If the home cannot be brought to standard with the amount of grant funding the applicant qualifies for, the homeowners' options are to:

- (1) Help client obtain additional funding from other sources;
- (2) Repair health and safety items first;
- (3) Utilize the balance of the grant to repair structural deficiencies

**(f) Housing Department Responsibilities**

The Housing Department will provide the following services to the applicant as part of the grant awarded under this program:

- (1) Request bids from licensed / bonded general contractors which comply with all applicable building codes and conditions including obtaining the necessary permits for the work based upon a written description of the work to be performed;
- (2) Select general contractor;
- (3) Conduct due diligence on the general contractor to ensure that they are properly licensed and bonded and otherwise qualified to perform the work on which the bid is submitted;
- (4) Provide or obtain a contract for the general contractor selected for the project and facilitate execution of the contract including written description of work to be performed, start date and completion date for the work;

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- (5)** Conduct routine inspections along with licensed building inspector and Homeowner of the work performed under contract to ensure that the work is properly performed and meets the applicable building code requirements;
- (6)** Make scheduled payments to General Contractor upon written approval of quality and quantity of work completed;
- (7)** Conduct final inspection of the work performed under the contract with a qualified building inspector and the homeowner to ensure that the work is properly performed and meets applicable building code and otherwise satisfactorily completed;
- (8)** Sign final approval of work with homeowner;
- (9)** Make final payment withholding the contractual amount withheld for one-year warranty of work requirement;
- (10)** Schedule and conduct the final warranty inspection with homeowner, general contractor one year after the completion of the project;
- (11)** If the final warranty inspection is successful, make the final payment from the warranty withholding percentage to general contractor.
- (12)** If the final warranty inspection reveals additional work is required, the Housing Department will facilitate the completion of the additional work and arrange additional inspection of the work. Upon completion of the additional work and successful inspection of the work, the Housing Department will make the final payment from the warrant withholding percentage to general contractor.

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## **§13.206 RENTAL ASSISTANCE**

### **POLICY STATEMENT**

The governing body of the Samish Indian Nation recognizes the need to develop a program that provides assistance to income eligible tribal members whose needs cannot be met through the existing housing programs. The Samish Indian Nation will implement the Rental Assistance Program in a manner consistent with the overall mission of the Samish Indian Nation Housing, the Native American Housing Assistance and HUD.

#### **(a) Payment Assistance**

The Housing Department will apply the following factors to determine the amounts of assistance to be paid to the landlord/owner on behalf of the participant:

**(1)** Annual income of the applicant/family;

**(2)** Fair Market Rent (FMR) for counties in the Samish Indian Nation's ten county service area; Skagit, Whatcom, Island, Kitsap, Snohomish, King, Jefferson, Clallam, Pierce and San Juan. The Fair Market Rent figures for each respective county shall be attached as appendices to this policy and shall be updated when published by HUD.

**(3)** If a family is not able to find a Unit that is within the FMR amount, they may select a Unit that is over the FMR amount, if approved by the Housing Director. Families must be able to provide documentation that they were not able to find a unit within the FMR amount for the county in which they live and demonstrate their ability to afford the difference in rent without exceeding 30% of their adjusted gross income. If the difference exceeds 30% of their adjusted gross income the unit will be denied, and the family will need to seek a smaller unit or find a unit within the FMR for the area in which they live.

*This section of the policy will be used rarely.*

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**(b) Grant Amount**

The assistance amount provided by the Housing Department to a family for rental assistance is based upon the fair market rent for the unit (the size of unit the family is eligible to rent according to the occupancy standard) minus 20 percent of the household's adjusted gross income. This amount can range from 20-30 percent of the household's adjusted gross income depending on available grant funding and will be passed by Council resolution on an annual basis.

**(c) Ineligible Applications**

Applications received from any family or person(s) not meeting the established criteria will be referred to other state or local agencies for housing assistance.

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**(d) Emergency Rental Assistance:**

Emergency Rental Assistance: If a recipient of rental assistance becomes incapacitated, ill, hospitalized and unable to work because of their incapacity, illness or hospitalization and thus are unable to pay their rent, they may request emergency rental assistance to cover the entire amount of their monthly rent.

The application must include verification of the recipient's medical status and/or inability to work from recipient's medical provider and certification of the recipient's inability to work. After verification of the individual's inability to work, the Housing Department may approve up to ninety (90) days of emergency assistance.

If a recipient loses their job or source of income and thus are unable to pay their rent, they may request emergency rental assistance to cover their entire amount of the rent. The recipient must provide documentation as requested by the Housing Department verifying, they have been looking for work, applied for unemployment benefits, SSI, state assistance or other means of gaining income.

If an individual requires emergency assistance beyond the initial ninety (90) days, the Housing Department can request approval from the Tribal Council to extend emergency assistance beyond the ninety (90) days. The Housing Department must obtain verification of the recipient's ongoing need for such assistance and provide written certification to the Council as part of the request for the extension of emergency assistance.

The recipient of emergency rental assistance must notify the Housing Department upon their return to work and provide income verification to the Housing Department to confirm the applicant's continued eligibility for a grant through the rental assistance program. The Housing Department will adjust the recipient's housing award based upon the income verification.

**(e) Other Assistance**

A participant may not receive rental assistance while receiving any other housing subsidy for the same unit or a different unit from any state, federal or local housing program and/or any other tribe or be on a reservation and/or trust property.

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**(f) Term of Assistance**

For all categories of families receiving rental assistance under this program, the subsidy is contingent upon the availability of funds from the Tribe's grant under the HUD's Indian Housing Block Grant. In addition, the following categories of assistance may be provided by the Housing Department.

**(1)** Rental assistance may be provided to a qualified Samish applicant family for a total subsidy equal to one hundred and twenty (120) months. The applicant must use the subsidy within 120 months of the award of the grant by the Department. If they have not used the grant within one hundred and twenty (120) months they may re-apply for assistances again but must follow the same terms and conditions as before.

**(2)** Rental assistance may be provided to qualified Samish Elderly or Near Elderly families for as long as they comply with the terms of this program and/or recertification. For purposes of the policies, the term elderly shall mean a person at least 62 years of age or older and Near Elderly shall mean a person who is at least 55 but less than 62 years of age. Elderly and Near Elderly family means a family whose head of household or his/her spouse or whose sole member is an elderly or near elderly person. [25 USC 4103]

**(3)** Rental assistance may be provided to qualified Samish disabled families through this program for the duration of their disability as long as they:

**(A)** Comply with the terms of this program and/or recertification; and

**(B)** Provide proof of their disability from their medical or mental health provider. The following information must be submitted as proof of their disability:

**(i)** Proof of SSI or SSDI payment for any type of disability;

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**(ii)** Formal disability assessment such as public disability award, a decision by the WA Labor and Industry Commission or the Veterans Administration;

If a person is deemed temporary disabled, the Housing Department will re-evaluate their eligibility for assistance under this section every year during recertification process.

**(4)** Enrolled members of other federally recognized Indian tribes that are qualified applicants may be provided rental assistance for a total subsidy equal to twenty-four 24 months. The applicant must use the subsidy within twenty-four 24 months of the award of the grant by the Department. If they have not used the grant within twenty-four 24 months, they may re-apply for assistances again but must follow the same terms and conditions as before.

#### **(g) Rental Deposit Grant**

**(A)** If a Samish client shows a need for both rental assistance and no way of getting into a resident without further assistance of a rental deposit grant, the Housing Department may award the client a deposit grant and first and last month's rent. An eligible Samish member who meets the eligibility criteria but is not in need of rental assistance may be awarded a rental deposit grant. The amount of the rental deposit cannot be above the monthly Fair Market Rent for the county the client lives in.

#### **(h) Rental Assistance Program's Requirements for Leases**

**(1)** To qualify for assistance under this program, the rental assistant applicant (participant) must have a one-year lease with a provision for automatic renewal at the end of the year unless a 30-day notice is provided by the participant or owner of intent not to renew the lease.

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In addition to providing notice of the intent to terminate the lease to the participant, the owner/ landlord must also provide a copy of the notice given to the participant to the Samish Housing Department. If the participant decides to vacate then the participant is required to provide a copy of the notice to vacate that was given to landlord/owner. Neither the participant nor the owner is required to continue with a one-year lease after the initial lease period and may opt to change to a month-to-month lease after the first year of the tenancy. If the Samish Housing Department believes it isn't in the best interest of a participant to sign a one-year lease and the participant is working with other Samish programs, a shorter lease may be approved upon staffing the case with the Health and Human Services Director.

**(2)** The Samish Housing Department will provide the participant a copy of the applicable landlord and tenant laws with the housing discrimination laws and a list of NAHASDA requirements to help assist potential landlords in submitting an acceptable lease to the Housing Department.

**(3)** The landlord/owner must comply with the provisions of the provisions of federal law governing the Indian Housing Block Grant which requires certification that the housing unit is free from lead base paint, 25 C.F.R. § 1000.40. If the dwelling does contain lead base paint it must be able to pass a Housing Quality Standards (HQS) inspection. The Samish Housing Department will provide the client a pamphlet on ways to protect themselves from the dangers of lead.

**(4)** Upon receipt of the proposed lease from the applicant, the Samish Housing Department will review the proposed lease and determine if there are any unlawful provisions in the lease and assure that it covers all the necessary provisions required by applicable policies and regulations.

**(5)** If any unlawful provisions are found, the Samish Housing Department will require the landlord/owner to strike them from the lease. If the landlord/owner is not willing to strike the unlawful provisions from the proposed lease, the Housing Department may not provide rental assistance to the applicant/tenant if they enter into the lease for the unit.

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**(6)** If there is any required provision missing from the lease, the Samish Housing Department will request the landlord/owner to amend the proposed lease to include these items in the lease. If the landlord/owner refuses to add the necessary provisions to the proposed lease, the Housing Department may not provide rental assistance to the applicant/tenant if they enter into the lease.

**(7)** If the Housing Department is satisfied that the lease contains all necessary provisions required and that it does not contain any unlawful provisions, the Housing Department may provide rental assistance to the applicant/tenant if they enter into the lease with the owner/landlord.

**(i) Non-Party to Lease**

The Samish Housing Department and the Samish Indian Nation are not a party to the lease and assumes no responsibility in its enforcement.

**(j) Payments upon Execution of Agreements for Assistance**

**(1) Samish Execution**

Once the lease and the unit have been approved, and the owner has signed the agreement to abide by the owner obligation statement, the Samish Housing Department will sign a contract with the owner for the assistance payment amount showing the effective date of payments and the amount of the monthly payment. The Housing Department must also obtain verification of the landlord/owner's tax payer identification number on the I.R.S. W-9 Form and have an executed contract with the landlord/owner for the assistance payments before the Accounting Department can process any payments to the owner. The Housing Department is responsible for obtaining these documents from the landlord/owner and processing the necessary paperwork to request payments from the Tribal Accounting Department. The Tribal Accounting Department will send rental assistance payments directly to the landlord/owner.

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## **(2) Rent Prorating**

If a participant/tenant moves into a unit during the month rather than at the beginning of the month, the assistance payment will be pro-rated for the remaining days left in the month. . The assistance payment will be made thereafter on or before the first day of each month. As long as the participant/tenant remains in compliance they are not responsible for the approved assistance payment made by the Samish Housing Department. The Housing Department is also not responsible for moving expenses, damage deposits and/or any other expense required for moving in. The Housing Department will pay the amount of rental assistance based on the tenant rental worksheet that will be completed upon initial certification, annual recertification or anytime there is a change in household size or income.

## **(3) Transfers - When Allowed**

The Housing Department may allow a participant/tenant to transfer from one rental unit to another under the following circumstance and still receive rental assistance.

### **(A) Initial Lease Transfers**

The Housing Department will allow a participant/tenant to transfer to a different unit during the initial lease period if landlord and participant tenant agree to terminate the lease with good cause, and Samish Housing Department approves of the termination of the tenancy.

### **(B) Transfers after Initial Lease Period**

Transfer requests after the initial lease period will be approved only under the following conditions:

- (i)** The dwelling no longer meets HQS standards (not caused by the participant) and the owner refuses to make the necessary repairs;
- (ii)** The family needs a smaller or larger unit in accordance with occupancy standards;

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**(iii)** The family needs to relocate closer to work, school, or medical facilities, or for safety reasons such as an act or threat of violence against the family. The family must provide supporting documentation of transfers under this provision:

**(iv)** The owner does not wish to renew the lease.

**(k) Certification Requirements.**

**(1) Annual Certification**

All participants in the rental assistance program will be required to be recertified by the Housing Program at least annually in accordance with the adopted Eligibility, Admission & Occupancy Policy to determine if they are still eligible for the program and if the assistance amount needs to be adjusted.

**(2) Program Ineligible**

All participants who are over income for the program at the time of recertification will be given 30 days' notice of termination from the program by the Housing Department. The Department will also send a copy of the notice to the owner/landlord.

**(l) Obligations of Parties**

**(1) Participant's/Family's Obligations**

To remain eligible for assistance through the rental subsidy program, a participant/family must comply with the following;

**(A)** When the participant's lease and unit are approved, the participant must sign an agreement to fulfill and abide by the required obligations for participation in the program as shown below. Any breach of the participant obligations is grounds for termination of assistance by the Housing Department.



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**(B)** Provide the Samish Housing Department with a copy of the RCW 59.18.260 written move in check list within fourteen (14) days of move in date and provide the Samish Housing Department with a copy of the RCW 59.18.280 written move out check list within thirty (30) days of move out date;

**(C)** Supply the Samish Housing Department with any information that the Department determines to be necessary for use in a regularly scheduled re-examination or interim re-examination of family composition and income;

**(D)** Disclose and verify social security numbers;

**(E)** Supply any information requested by the Samish Housing Department to verify the family is living in the unit or information related to family absence from the unit;

**(F)** Promptly notify the Samish Housing Department if the family will be away from the unit for more than fourteen (14) consecutive days;

**(G)** Notify the Samish Housing Department and the owner/landlord in writing at least thirty (30) days prior to moving out of the unit or terminating the lease;

**(H)** Notify the Samish Housing Department of any changes in income within two weeks of change.

**(I)** Use the assisted unit for residence by the family only. Request in writing approval from the Samish Housing Department and landlord to add any other family members as occupants of the unit and provide any information or documentation requested by the

Department regarding the proposed occupant in order to verify their eligibility before allowing the person to move into the housing unit;

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**(J)** Give the Samish Housing Department a copy of any owner eviction notice, or notice of lease termination;

**(K)** Pay all utility bills and the portion of the rent.

**(3) Applicant/Family Must Not:**

To be eligible to receive or continue to receive assistance through the rental assistance program, an applicant/family may not:

**(A)** Own or have any interest in the unit;

**(B)** Commit any serious or repeated violation of the lease;

**(C)** Commit fraud, bribery or any other corrupt criminal act in connection with the program;

**(D)** Participate in illegal drug activity or violent criminal activity.

**(E)** Sublease or let the unit or assign the lease or transfer the unit;

**(F)** Receive any other housing subsidy for the same unit or a different unit from any state, federal or local housing program and/or any other tribe or be on a reservation and/or trust property;

**(G)** Damage the unit or premises (other than normal wear and tear) or permit any guest to damage the unit or premises;

**(H)** Fail to pay rent for the unit;

**(I)** Be evicted from the unit;

**(J)** Fail to maintain the utilities for the unit.

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#### **(4) Landlord/Owner's Obligations**

Prior to execution of the contract for assistance payment by the Samish Housing Department to the owner on behalf of the family, the owner must agree to the following obligations in the program and must sign a statement that they are willing to adhere to these obligations before assistance can be approved.

**(A)** The owner is responsible for conducting its own background checks and contacting references to determine the participant's suitability as a renter. The Samish Housing Department does not screen the tenants on behalf of the landlord and cannot release information regarding Housing Program screening to the landlord/owner and cannot pay for background checks required by the owner/landlord.

**(B)** The owner is responsible for compliance issues concerning any and all conditions of the lease.

**(C)** The owner is responsible for providing the Samish Indian nation with a copy of any eviction or lease termination.

**(D)** The owner must notify the Samish Housing Department if any participant vacates a unit.

**(E)** The owner must provide the Samish Housing Department with a copy for approval of any changes to the lease during the tenancy of a participant of this program.

**(F)** If the applicant/tenant causes damage to the unit, it is the owner's responsibility to take appropriate action in accordance with the lease and state and local law. The Samish Housing Department will not be held responsible for any damages, drug abuse and/or any conduct that violates the said lease and/or Samish Indian Nation housing policies.

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### **(5) Housing Department's Obligation**

**(A)** The Samish Housing Department is responsible for payment of the assistance amount to the owner each month by the first of each month.

**(B)** The Samish Housing Department is responsible for conducting an inspection of the proposed rental unit prior to approval of payment of assistance for the lease or rent the unit by an applicant/family.

The standards used for these inspections are set forth in the Appendix--the Housing Quality Standards (HQS) for the Rental Assistance Program-- of these Policies.

**(C)** The Samish Housing Department will also conduct special inspections if it is reported that the dwelling no longer meets the minimum requirements and the owner/landlord is unwilling to make the necessary repairs. If it is determined that the unit no longer meets the minimum requirement, the Samish Housing Department will request the necessary repairs in writing to the landlord. If the landlord is unwilling to make the repairs, the Samish Housing Department will allow the tenant participant to transfer to a unit that does meet the requirements.

**(D)** The Samish Housing Department is responsible for conducting the initial income verification to determine eligibility and conducting re-certifications for continued eligibility of participants at least annually.

**(E)** The Samish Indian Nation is responsible for providing notice to the landlord and participant if assistance amounts change or cease.

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**(l) Effect on Assistance If a Family Breaks Up**

In the event that a family receiving assistance under this program breaks up, the Housing Department may continue to provide assistance under the following circumstances.

**(1) Parents' Divorce or Separate**

**(A)** If there are children included in the household who are tribal member children, the assistance will remain with the parent who has legal and physical custody and control of the children.

**(B)** If parents have joint legal and physical custody of the children (the parents share custody and care for the children), the tribal member parent will retain the assistance through the program. In the event that both parents are tribal members, the Housing Department will make a determination as to which parent should receive the subsidy based upon need and who otherwise qualifies for assistance under these policies and the applicable regulations.

**(2) Households without children**

If there are no children in the household, the assistance will remain with the participant who signed the lease if he/she is a tribal member and otherwise qualifies for assistance under these policies and the applicable regulations.

**(3) Families involved with Domestic Violence**

Family members who are the victims of violence in the home and are forced to leave as a result of the violence will retain the assistance provided that he or she is a tribal member, or the parent of tribal member children residing in the unit and has legal and/or physical custody of the tribal member children.

**(m) Termination of Lease**

**(1) Termination of Tenancy by the Owner**

Housing Admission Policies Adopted 6/9/07-Resolution 2007-06-009; Revised 2/13/09 Resolution 2009-02-012; 38 Revised 5/03/13 Resolution 2013-05-004; Revised 12/13/13 Resolution 2013-12-011; Revised 1/10/14 Resolution 2014-01-009; Revised 5/02/14 Resolution 2014-05-008; Revised 10/17/14 Resolution 2014-10-013; Revised 9/30/15 Resolution 2015-09-23; 12/12/15 Resolution 2015-12-033; Resolution 2018-11-011

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During the term of the lease the owner may not terminate tenancy of applicant/family except for:

- (A)** Serious or repeated violations of the terms of the lease by the tenant;
- (B)** Violations of state, federal or local law that relate to occupancy or use of the unit;
- (C)** The owner desires to use the unit for personal use, or desires to sell or renovate the property;
- (D)** The owner may not terminate tenancy for non-payment of the Samish Indian Nation assistance payment;
- (E)** The owner must give the tenant written notice of the grounds for the termination and provide a copy of any such notice to the Samish Housing Department. Any such notice must be in conformance with local or state law.

**(2) Termination of Tenancy by Applicant/Family**

As a participant in the rental assistance program, an applicant/ family must comply with following provisions:

- (A)** The family may terminate tenancy after the first year of the lease and/or per rental agreement;
- (B)** Terminations during the first year and /or per rental agreement are allowed only if the owner agrees to release the family from the lease in writing and the participant meets the requirements for a transfer. The Samish Housing Department will end payment to landlord at that time;
- (C)** The family must provide the owner and the Samish Housing Department with a copy of the notice of termination in accordance with the lease;

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**(D)** The family may also terminate the lease if the owner breaches HQS standards and refuses to repair unit after notification in writing of the necessary repairs.

**(n) Termination of Assistance by the Samish Housing Department**

The Housing Department may terminate family assistance for any of the following reasons:

**(1)** Any violation of family obligations and/or housing policy and/or landlord lease agreement;

**(2)** Reasonable suspicion of illegal drug activity of any kind or violent and/or criminal activity;

**(3)** Family falsifies any information submitted to the Housing Department whether willingly and/or unwillingly. Not submitting complete information and/or change of circumstance;

**(4)** Failure of family to sign and submit verification documents for recertification. If the family fails to recertify annual and/or recertification is delayed more than one month because of the applicant/family's failure to provide information or otherwise comply with the requirements of the recertification process;

**(5)** If the family breaks up;

**(6)** If the owner fails to maintain unit in accordance with HQS standards;

**(7)** If tenant fails to notify the Housing Department of any housing violations;

**(8)** If available program funding is insufficient to support continued assistance for the families.



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§13.207

**APPLICANT/TENANT'S RIGHT TO FILE APPEAL ADVERSE DECISION BY HOUSING DEPARTMENT**

**(a) Samish Housing Assistance Applicant/Family Hearing Process.**

**(1)** An applicant/family receiving housing assistance under any of the Samish Housing Department Programs funded by the Indian Housing Block Grant has a right to appeal the Housing Department's decision to terminate their assistance or reject their application for assistance pursuant to the provisions of the Tribe's Administrative Appeals Board Ordinance.

**(2)** The applicant/family shall receive a copy of the Housing Department's file on their application or assistance grant subject to the grievance if the request is submitted in writing.

**(3)** The applicant/family may also request copies of the Housing Department Policies governing the housing programs from the Housing Department. The Housing Department will make the policies available to the applicant/family.

**(3)** The hearing on the appeal shall be conducted pursuant to the provisions of the Administrative Appeals Board ordinance.

**(b) Final Decision**

The Administrative Appeal Board's decision is a final decision and not subject to further review.