

**Poarch Band of Creek Indians Housing Department  
Heating and Cooling System Loan Program  
Policies and Procedures**

**I. General Policy Statement**

The Poarch Band of Creek Indians (the "Tribe"), through its Housing Department, recognizes the need to establish Policies and Procedures for the Heating and Cooling System Loan Program.

**II. Purpose**

This Program is designed to provide financial assistance to Tribal Members for installation or replacement of residential heating and cooling systems. Financial assistance provided shall be provided in the form of a loan from the Housing Department requiring repayment. This Policy describes the types of allowable uses and the steps that must be followed to request payment for the Heating and Cooling System Loan Program.

**III. General Information**

The Housing Department will provide limited funding for the installation or replacement of residential heating and cooling systems for eligible Tribal Members. Funding is provided using Tribal (non-federal, non-program) funds. Applications will be accepted as long as funds are available.

**IV. Definitions**

- A. "Applicant" shall mean the Tribal Member applying for the services. If the Applicant is married, both spouses must sign the application and the Promissory Note. If both are Tribal Members, one spouse shall be designated as the Applicant for purposes of these services.
- B. "Department" or "Housing Department" shall mean the Poarch Band of Creek Indians Housing Department.
- C. "Homeowner" shall mean the person(s) who holds title to the property in need of heating and cooling rehabilitation.
- D. "Participant" shall mean the Tribal Member who is selected for and continues to have obligations under the terms of the Heating and Cooling System Loan Program.
- E. "Primary Residence" shall mean the dwelling in which the Tribal Member Homeowner resides and to which he/she holds title. Applicants who are

participating in the TAHO Program are eligible to apply. An individual may have only one Primary Residence.

- F. "TAHO Program" shall mean the Tribally Assisted Home Ownership Program.
- G. "Tribal Member" shall mean an enrolled member of the Poarch Band of Creek Indians.
- H. "Tribe" shall mean the Poarch Band of Creek Indians

**V. Eligibility Requirements**

- A. To be eligible for the Heating and Cooling System Loan Program, Applicants must meet the following eligibility requirements:
  - 1. Applicant must be at least 18 years of age.
  - 2. Primary Applicant must be a Tribal Member. If the Applicant is married, his/her spouse's information must be included, and the spouse must also sign the application and Promissory Note.
  - 3. Applicant must own or have no less than five (5) years remaining on the current lease on the home or manufactured home requiring repair or replacement of the heating and cooling system.
  - 4. Applicant must be current on all accounts with the Tribe, must not be in default on any Tribal accounts, and must not be in delinquent status with any Tribal programs.
  - 5. Applicant must not have received assistance under this Heating and Cooling System Loan Program within the five (5) years preceding the application.
  - 6. Property must be Tribal Member's Primary Residence at the time the heating and cooling system is installed.
- B. The following documentation must be submitted with the application to verify eligibility:
  - 1. A copy of the deed to the home or the lease signed by the Applicant or, if a manufactured home is being rehabilitated, a copy of the title or other proof of ownership;

2. A copy of Tribal ID card(s);
3. A copy of the Social Security card(s) for Applicant and spouse; and
4. Any other documentation requested by the Housing Department as may be required to establish eligibility.

**VI. Application Process**

- A. Eligible Tribal Members must complete an Application for the Heating and Cooling System Loan (**Exhibit A**) and turn the Application in to the Housing Department. Applications will be reviewed in the date order they are received.
- B. Applications will be received and reviewed by the Programs Manager prior to approval/disapproval by the Housing Director.
- C. All Applicants will receive a letter from the Housing Department staff notifying them of the status of their application once all information provided on application has been verified.
- D. Approval of applications is subject to the availability of funds. Applicants will be notified by letter whether their application is approved or if they will be placed on a waiting list until funds become available.
- E. All ineligible applications will remain on file for a period of no longer than twelve (12) months and then destroyed.

**VII. Specific Policies**

- A. The Housing Director shall have the authority to determine if the Applicant's heating or cooling system requires repair or replacement.
- B. The Housing Director shall have the authority to grant approval for repair or replacement not to exceed a cost of Five Thousand Dollars (\$5,000.00). Only one Heating and Cooling Loan is allowed per Household every five (5) years regardless of the number of Tribal Members in the household.
- C. All eligible Applicants (and his/her spouse, if applicable) selected to participate in the Program must sign a Promissory Note with the Tribe. (**Exhibit B**) The term of the loan shall be five (5) years. There shall not be any penalty for early payoff of the loan.

- D. The Participant shall be responsible for selecting a contractor to perform the services.

**VIII. Promissory Note and Loan Repayment**

- A. All Applicants shall sign all necessary loan documents, including a Promissory Note before any work may begin. However, in no event shall the necessary loan documents be signed later than fourteen (14) days after the Applicant receives notification of the approval of his or her application.
- B. The Homeowner shall have ninety (90) days after Promissory Note has been signed to install the heating and cooling system. A request for an extension beyond the ninety (90) days may be granted in extenuating circumstances and must be made in writing including a statement of good cause as to why the services could not be installed within the ninety (90) day period. Any extension must be approved in writing by the Housing Director at the Director's sole discretion. Upon the execution of the Promissory Note and the submission of the proper loan documentation to the Housing Department, disbursement will be made as outlined in Section IX, "Payment for Heating and Cooling System Services."
- C. Promissory Note payments will begin on the 1<sup>st</sup> day of the month following the completion of the work or ninety (90) days after the date of the Promissory Note is signed, whichever is sooner, and are payable according to the terms and conditions set forth in the Promissory Note. As stated in the Promissory Note, payments are due at the first of the month and will be considered outstanding after the 15<sup>th</sup> of each month. A late fee equal to 10% of the required monthly payment will be posted to all accounts that are outstanding after the 15<sup>th</sup> of each month. Any account that is not brought current by the end of the last day of the month shall be considered to be in default.
- D. All funds must be repaid within five (5) years of signing the Promissory Note.
- E. If Homeowner defaults by failing to pay the monthly payments outlined in the Promissory Note or in the performance of any obligation under the Policies and Procedures for this Program, the Tribe will consider the default by a Tribal Member a Tribal Obligation Default and recover the entire unpaid amount in accordance with Title 41 and Title 44 of the Poarch Band of Creek Indians' Tribal Code. As a Tribal Obligation Default, the Housing Department shall, upon written notice, have the right and authority to retain and apply Tribal Member's share of any distributions paid to the Tribal Member from the Tribe, including per capita distribution, General Welfare, or any other monies paid to the Participant, without any further action, proceedings or authorization by the Tribal Court or any other authority.

## **IX. Payment for Heating and Cooling System Services**

The Poarch Band of Creek Indians Accounting Department will make payment to the party performing the work and the Participant via a two-party check. At no time will payments be made solely to the Participant for any materials or contractor invoices. There will be no exceptions to this rule unless prior arrangements have been made with the Housing Director.

## **X. Resale Restriction**

If at any time the Participant sells or transfers title to the home before payment in full has been made, the Participant must repay the Tribe any balance due on the loan at the time of sale or transfer, except if: (1) the transfer is to another Tribal Member, (2) the Tribal Member purchaser is willing to fully assume payment of the loan (meaning the Tribal Member must sign a Promissory Note with a pledge of his/her Tribal distributions in event of a default), and (3) the Tribal Member purchaser qualifies for the Heating and Cooling System Loan Program.

## **XI. Grievance Procedure**

### **A. Grievance Process**

1. If there is any disagreement about a denial of an application or payment for services, the Applicant must initiate the grievance process by submitting a written letter to the Housing Department within ten (10) business days of the denial.
2. When the signed letter is logged in with the date and time of receipt, it will be reviewed by the Housing Director with input from any other involved staff. A written response will be provided to the Applicant within ten (10) business days.
3. If there continues to be questions or disagreements about a denial of an application or request for payment for services, the Applicant must submit a letter to the Tribal Member Services Division Director within ten (10) business days after the decision of the Housing Director is made, requesting a review of the housing file and relevant documents.
4. The Tribal Member Services Division Director can concur with the decision of the Housing Department or make recommendations regarding approval of or a revision to the initial decision. A written response will be provided to the Applicant within five (5) business days.
5. If there continues to be questions or disagreements about a denial of an application or request for payment for services, the Applicant must submit a letter to the Chief Financial Officer within ten (10) business days after the decision of the Tribal Member Services Division Director is made, requesting a review of the housing file and relevant documents. The Chief Financial Officer Staff can concur with the initial decision or make recommendations regarding the initial application or renewal of the Lease Agreement. A written response will be provided to the Applicant within five (5) business days.

**B. Appeal Process**

1. When the Applicant does not agree with the decision rendered at the departmental level after exhausting all administrative remedies, the Applicant may seek to appeal the decision by filing a notice of appeal with the Tribal Grievance Board.
2. The appellant must provide written notice to the Tribal Grievance Board by filing the intent to appeal in the Regulatory Affairs Division Office within fourteen (14) calendar days of the receipt of the final departmental decision. The Appeal Notice shall set forth the specific issues and reason(s) for the request, along with any other relevant statements or documents the appellant desires to include. Upon receipt of the Appeal Notice, the appellant will be provided a copy of the established appeal procedures set forth by the Tribal Grievance Board.
3. Any decision made by the Tribal Grievance Board is considered final and no other administrative action is available to an appellant.

**XII. Implementation of Program Policy**

The Housing Director and Staff are tasked with the requirement to implement the Heating and Cooling System Loan Program by promoting it, developing any other necessary forms and developing a point system that would lead to the creation of a list of Applicants that is to be prioritized and maintained.

These policies and procedures are adopted by the Poarch Band of Creek Indians Housing Department on the 22<sup>nd</sup> day of October, 2021. These Policies and Procedures will apply to any applications approved after the date of adoption.



Housing Director  
Poarch Band of Creek Indians

Exhibit A  
Loan Application

**EXHIBIT B**  
**Promissory Note**



**PROMISSORY NOTE FOR HEATING AND COOLING SYSTEM LOAN**

**RECITATIONS:**

Borrower: \_\_\_\_\_ Term (in months): \_\_\_\_\_

Borrower's Address: \_\_\_\_\_  
\_\_\_\_\_

Principal Amount: \_\_\_\_\_ Monthly Payment: \_\_\_\_\_

1. Acknowledgement:

For Value Received, I/we, \_\_\_\_\_, by execution of this instrument, acknowledge and recognize that I/we am/are indebted to the Poarch Band of Creek Indians ("Tribe") for the principal sum of \_\_\_\_\_. I/we acknowledge and recognize this indebtedness, and I/we agree to make payment of amount due.

2. Payment Terms:

The principal due under this Promissory Note is payable in \_\_\_ equal monthly installments of \_\_\_\_\_. Payments will begin on the 1<sup>st</sup> day of the month following the completion of the work or ninety (90) days after the date of the Promissory Note is signed, whichever is sooner, and continuing on the 1st day of each succeeding month thereafter, and one final installment of principal in the amount of \_\_\_\_\_.

3. Late Payment Fee:

In any event that any payment required to be paid by Borrower hereunder is not received by the 15th day of the month, the Borrower shall pay to the Tribe, in addition to such payment or other charges due hereunder, a late fee in the amount of 10% of the monthly payment amount.

4. Payments to Contractors/Vendors:

All disbursements based upon this Promissory Note will be made in the name of the contractor/vendor and Borrower. All disbursements to contractors/vendors are made on behalf of the Borrower, and no disbursements are to be construed as payment for services on behalf of the Housing Department. This Promissory Note in no way establishes a contractor/vendor relationship between the Poarch Band of Creek Indians or the Housing Department and the contractors/vendors that receive disbursements based upon this Promissory Note.

6. Sale of the Property:

The Borrower shall immediately pay the unpaid principal upon the sale the property where the approved home improvement project occurred unless the exception to the Resale Restriction is

met per the Heating and Cooling Loan Policies and Procedures.

7. Default Clause:

If Borrower defaults in the payment of this Promissory Note or in the performance of any obligation related to this Promissory Note, the Tribe will not provide Borrower with any notification but will immediately declare the unpaid amount on this Promissory Note immediately due. The Tribe may consider the default a Tribal Obligation Default and recover the entire unpaid amount in accordance with Title 41 and Title 44 of the Poarch Band of Creek Indians' Tribal Code. As a Tribal Obligation Default, the Tribe shall, upon written notice, have the right and authority to retain and apply Borrower's share of any Tribal Distributions paid to the Borrower from the Tribe, including per capita distribution, General Welfare, or any other monies paid to the Borrower, without any further action, proceeding or authorization be the Tribal Court or any other authority.

In accordance with the General Welfare Assistance Program Policy, if the Participant is delinquent in payments three (3) times in a twelve (12) month period, a full year of payments will be withheld from the Participant's next General Welfare Assistance payment. If the Participant is delinquent for ninety (90) days or more, a full year of payments will be taken from the Participant's next General Welfare Assistance payment and for every subsequent year until the balance of the loan is paid in full.

If the Tribe chooses not to recover the unpaid balance under the Tribal Obligation Default process, it may seek judgment against Borrower for the entire unpaid principal balance, plus interest at a rate of 18% per annum (1.5% per month) from the date of default, and all reasonable attorney's fees associated with the collection and/or enforcement of this Promissory Note through probate, bankruptcy or other judicial proceeding, including Tribal Court. No judgment made by any other court shall release Borrowers from the obligations herein. This Promissory Note does not release Borrower from judgment made by any other court and is binding until all accumulated charges owed to the Tribe by Borrower are paid in full.

8. Demand, Presentment, Notice:

Borrower hereby waives demand, presentment, notice of dishonor, diligence in collecting, grace and notice of protest. Borrower understands this means that the Tribe or Housing Department shall not provide any further notification if Borrower fails to make this payment, but the Housing Department may immediately seek a judgment against Borrower.

9. Severable:

If any provision of this Promissory Note or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Promissory Note nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

10. Waiver:

The failure of the Tribe or Housing Department to insist upon a strict performance of any of the terms, conditions, and covenants herein contained shall not be deemed to be a waiver of any of the rights or remedies that the Tribe or Housing Department may have and shall not be deemed a waiver of such rights and remedies in the event of any subsequent breach or default in the terms, conditions, and covenants of this Agreement.

13. Governing Law:

This Promissory Note shall be governed, construed and interpreted by, through and under the laws of the Poarch Band of Creek Indians. All actions for non-payment shall be commenced in the Tribal Court for the Poarch Band of Creek Indians.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Borrower's Signature

\_\_\_\_\_  
Lender's Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Borrower's Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name

WITNESSED:

STATE OF \_\_\_\_\_ COUNTY

I, the undersigned authority in and for said County and State, hereby certify that \_\_\_\_\_, whose name(s) is/are signed to the foregoing conveyance and who is/are known to me and acknowledged before me that being informed of the contents of the foregoing, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this \_\_day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_