



Malahat

Malahat Nation

STATEMENT OF POLICY AND PROCEDURE

Housing Policy

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Glossary of Terms

When used in this Housing Policy the following definitions will apply to the following terms:

“Active Housing Application” means a Housing Application that was submitted to the Housing Department no more than a year ago and/or a Housing Application that has been updated in accordance with this Housing Policy.

“Additional Rent” means an amount of money paid, or required to be paid, by a Tenant to Malahat Nation for housing related expenses, services, fees, and/or penalties, including, but not limited to, fees charged for water and sewer services, garbage collection services, and penalties for failing to pay Rent on time.

“Applicant” means a person who is applying for the allocation of a Rental Unit using a Housing Application or a person who is applying to purchase, build or renovate a residential dwelling on Malahat Nation Lands using a Market Based Housing Application.

“Arrears” means any Rent or money which has become due and owed to the Malahat Nation or a financial institution, has not yet been received and for which no payment plan or Arrears Agreement has been negotiated.

“Arrears Agreement” means an agreement between a Tenant and Malahat Nation that stipulates the amount and due dates for Arrears payments as described in section 3.7 of this Policy.

“Authorized Occupant” means a person who is not a Tenant, but has been approved by the Landlord and designated as an Authorized Occupant in the Rental Agreement to occupy a residence beyond the limited terms permitted for a Guest.

“Borrower” means a Member or MN Owned Entity who enters into a loan or mortgage agreement with a financial institution under the Market Housing Program.

“CAO” means the Chief Administrative Officer and includes the Band Manager position whether under this title or any other, including CEO.

“CMHC” means the Canada Mortgage and Housing Corporation.

“Council” means the Chief and Councilors duly elected by the Malahat Nation members in accordance with the *Indian Act* or applicable election code.

“Default” means to commit a breach of a loan agreement with a financial institution or a Security Agreement with Malahat Nation, which entitles the lender or Malahat Nation to take enforcement action.

“Designated contact person” means the person designated by the housing department to be contacted in case of emergency. The name and contact information of this person will be provided to the Tenant.

“Eviction” means the action taken by Malahat Nation to remove a Tenant or person from a Nation-Owned House for failing to comply with this Policy and/or the conditions of their Rental Agreement or the action taken by Malahat Nation to regain possession of land and/or a home upon Default by a Borrower.

“Emergency Shelter” means housing that may be made available on a temporary basis as authorized by the CAO that may not offer all of the equipment, services, and occupancy latitude standard in permanent housing.

“FNMHF” means the First Nations Market Housing Fund.

“Force Majeure” means any act, event or cause, except in relation to obligations to make payments under this Agreement, beyond the reasonable control of the party affected by that force majeure including, without limitation, any act of God or any public enemy, fire, flood, explosion, landslide, natural disaster or epidemic.

“Guest” means a person who is neither a Tenant nor an Authorized Occupant, but is otherwise permitted to be present on Nation lands and may remain in accordance with this Housing Policy for a period of 20 days consecutively, or a maximum of 30 days in a six-month period.

“Homeowner” means a Member to whom possession of a house or other residential property on Malahat Nation Lands has been allotted by Council pursuant to a customary allotment.

“Household Composition” means the number of people in a household, their ages, genders and relationships.

“Housing Application” means an application for the allocation of a Rental Unit and which will be available upon request from the Housing Department.

“Housing Department” means the Housing Manager and the housing employees of the Malahat Nation who have been delegated authority by the Housing Manager to administer this Housing Policy and the Housing Programs.

“Household Income” means the whole and combined gross income or money received, of all members of the household.

“Housing Program” means the Rental Program, Shelter Allowance Program, Homeowner Program, Market Housing Program and any other housing program that is implemented in accordance with this Policy.

“Immediate Family” means spouses, parents, siblings and children.

“ISC” means Indigenous Services Canada, formerly Aboriginal Affairs and Northern Development Canada, which itself was formerly Indian and Northern Affairs Canada.

“Landlord” means Malahat Nation.

“Malahat Nation or MN” means the Indian “Band” as defined by the *Indian Act* and known as the Malahat Nation.

“Malahat Nation Lands” means reserve lands set apart for the use and benefit of the Malahat Nation.

“Member” means a member of the Malahat Nation whose name appears on or is eligible to appear on the Malahat Nation membership list.

“MN Owned Entity” means a corporation which is wholly owned by or on behalf of Malahat Nation.

“Mortgaged Rental Unit” means a Nation-Owned House that is no longer subject to a mortgage, was constructed and financed through the CMHC Section 95 program or bank financing, and is occupied by a Tenant.

“Nation-Owned House” means a house, or other residential property owned and administered by the Malahat Nation and includes, but is not limited to:

- Rental Units; and
- Mortgaged Rental Units.

“National Occupancy Standard” means the requirements set by the Canadian Mortgage and Housing Corporation (CMHC) to help determine the number of bedrooms a dwelling should have to provide freedom from crowding taking into account the number, age, sex and interrelationships of the household members:

The Canadian National Occupancy Standards states that:

- no more than two people shall share a bedroom,
- parents or couples may share a bedroom,
- children under 5 years, either of the same sex or opposite sex may share a bedroom,
- children under 18 years of the same sex may share a bedroom, and
- a child aged 5 to 17 years should not share a bedroom with a child under 5 of the opposite sex.

“Housing Manager” means the Malahat Nation employee who has been delegated authority by the CAO to manage and implement this Housing Policy and to manage the day to day operations of the Housing Department and Housing Programs.

“Non-member” means a person who is not a member of Malahat Nation.

“Permanent Residence” means the residence which a person occupies on a year-round basis for the purposes of the Homeowner Program.

“Primary Residence” means the home which a person occupies the majority of the time.

“Primary Tenant” means the original signatory tenant in a subleasing context.

“Private Tenant” means a person who pays, or is required to pay, rent to a landlord Homeowner in return for the right to occupy a Privately-Owned Home.

“Privately Owned Home” means a house or other residential property on Malahat Nation Lands that a Member has been allotted by Council pursuant to a customary allotment.

“Proof of Income” is the requirement for the tenant to supply the Housing Department with documentation to verify annual income of the household, including T-4's, Revenue Canada Notice of Assessment (T451) or other documents that substantiate income from all sources.

“Rent” means an amount of money paid, or required to be paid, monthly by a Tenant to Malahat Nation in exchange for the right to occupy a Nation-Owned House, but does not include a security deposit, Arrears, or other debts owed by a Tenant to Malahat Nation in connection with the tenancy.

“Rental Agreement” means the written agreement between a Tenant and the Malahat Nation that confers on the Tenant a right to occupy a Rental Unit in exchange for the payment of Rent, and includes Sublease Agreements and any renewal of a Rental Agreement or Sublease Agreement.

“Rental Unit” means a Nation-Owned House that is available to be occupied by a Tenant under the terms of a Rental Agreement and in exchange for payment of Rent, and includes Mortgaged Rental Units.

“RRAP” means the Residential Rehabilitations Assistance Program which is administered by CMHC.

“Secondary Contact Person” means the person designated by the housing department to be contacted in case of emergency if the primary contact person is unavailable. The name and contact information of this person will be provided to the Tenant.

“Security Agreement” means the written agreement setting out the respective rights and obligations of Malahat Nation and the Borrower in respect of a First Nation loan guarantee under the Market Housing Program.

“Shelter Allowance” means financial assistance a Tenant receives or which Malahat Nation receives on a Tenants behalf to pay Rent and housing related expenses, including, but not limited to, housing related expenses that may be charged as Additional Rent by Malahat Nation.

“Spouse” means either of two (2) persons who are married to each other or who have lived with each other in a marriage-like relationship for a period of at least two (2) years and includes persons of the same gender.

“Sublease” means a temporary agreement made between a Tenant and a Member through which the Member assumes the rights and responsibilities of the Tenant in relation to a Rental Unit for a specified period of time.

“Sublease Agreement” means an agreement made between Malahat Nation and a Subtenant for the temporary use and occupancy of a Rental Unit for which there is a Rental Agreement in place between Malahat Nation and a primary Tenant.

“Subtenant” means a Member who agrees to Sublease a Rental Unit from a Tenant and enter into a Sublease Agreement with Malahat Nation.

“Tenant” means a person who enters into a Rental Agreement or Sublease Agreement with the Malahat Nation and pays Rent or who is required to pay Rent to Malahat Nation in return for the right to occupy a Nation-Owned House.

“Waiting List” means the list of Active Housing Applications on file with the Housing Department.

“Working days” mean Monday – Friday except for statutory holidays.

Any defined term will be read as having an appropriate corresponding meaning if referred to in the singular, plural, verb, or noun form.

Section 1.0 - Introduction

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1.1 Mission Statement

Malahat Nation is committed to providing Members with options for safe, affordable and energy efficient housing in a manner that is unbiased, transparent and fair.

1.2 Revisions to Policy

This Housing Policy shall be reviewed and, if necessary, revised annually to ensure it is relevant and continues to meet the needs of the community.

1.3 Purpose

Malahat Nation has developed and adopted this Housing Policy for the effective management of on-reserve housing. Implementing a comprehensive Housing Policy provides Council and the Housing Department with a framework to deliver the Housing Program to all Malahat Nation Members reliably and consistently. It also enables the Malahat Nation to align policy and program delivery across departments for effective use of limited resources and to ensure the maintenance of rental houses.

1.4 Guiding Principles

In conjunction with Council, Members, and the Housing Department the following guiding principles have been established:

- Council has delegated the authority of managing and implementing this Housing Policy and the Housing Programs to the Housing Manager;
- Build and maintain safe, affordable and energy efficient housing for Malahat Nation Members;
- Develop and implement an effective maintenance program to ensure a minimum level of health and safety;
- Extend and maximize the useful life of existing Malahat Nation housing inventory;
- Pursue alternative and creative housing opportunities so that a greater number of Malahat Nation Members have the opportunity to own a home;

1.5 Authority and Application

This Housing Policy is made under the authority of the Council.

This Housing Policy and the guidelines, procedures, policies and criteria it establishes apply to all houses (as identified in this Policy) on Malahat Nation Lands and to all housing services provided by the Housing Department.

Section 2.0 – Governance

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2.1 Housing Department

The Housing Department, in cooperation and consultation with the Housing Manager, shall be responsible for the day to day operations, administration and management of this Housing Policy and the Housing Programs.

The Housing Department's office is located at 1121 Jesken Road, Mill Bay, BC.

Housing Department Roles and Responsibilities

Under the direction of, and in cooperation and consultation with, the Housing Manager, the Housing Department shall carry out the following functions:

- prepare and present annual budgets to the Housing Manager;
- ensure reports are prepared and presented to the Housing Manager and where required to Council;
- advise the Housing Manager on the implications of any transaction or policy changes contemplated;
- keep Council up-to-date on workshops, training, funding opportunities, and any relevant correspondence;
- manage and carry out the day to day operations required to implement and oversee the Housing Program(s) and other related duties;
- promote and manage the Housing Programs;
- ensure adherence to all applicable building codes and guidelines (National Building Code, British Columbia Building Code, Labor Code, Fire and Safety);
- ensure inspections are performed by qualified inspectors on all work done on Nation-Owned Houses, before, during and after work is done;
- accompany the qualified inspector(s) during all inspections of Nation-Owned Houses;
- provide construction and renovation updates to the Council as needed or when requested;
- accept and score Housing Applications and renovation applications for review;
- allocate Rental Unit;
- provide orientation to new Tenants;
- maintain and update Tenant files, the Waiting List and renovation requests;
- Coordinate with the Finance Department to collect Rent and issue receipts;
- ensure monthly Rent payments from income/social assistance and payroll are being made;
- maintain a database on all housing accounts;
- provide an Arrears report to Council when requested;
- implement the Arrears Management Plan of this Housing Policy;
- provide Tenant counseling as required;
- enter into Arrears Agreements with Tenants as required; and
- prepare and deliver all notices, including Arrears and Eviction notices.

Section 3.0 – Rental Program

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3.1 Posting Rental Vacancies

When a rental unit becomes available, the Housing Department shall post an announcement on MalahatNation.com and Malahat Nation’s Facebook page, which shall be visible for a minimum period of 90 days before the unit is allocated. If there are extenuating circumstances that require a truncated posting period, the CAO may authorize an expedited process.

3.2 Application Requirements

The following requirements must be met by Applicants who wish to be considered for allocation of a Rental Unit. If any of these requirements are not met, the Housing Department: shall not accept the Housing Application and shall advise the applicant that the application requirements were not met.

Housing Application Form

In order to be considered for allocation of a Rental Unit, the Applicant must submit a completed Housing Application to the Housing Department that includes:

- Written consent from the Applicant to speak to the references and verify employment and/or financial information submitted in support of the Housing Application.

Housing Applications on file with the Housing Department must be updated by the Applicant on an annual basis and whenever there is a change to the information contained in the Housing Application in order to remain on the Waiting List.

Applicants receiving Shelter Allowance must provide proof of income or some other form of income/social assistance & must maintain an up-to-date file with the Band Social Development Worker in the Community Programs Department.

In shared parenting time arrangements, written proof must be provided to the Housing Department demonstrating said arrangements. This can be provided by either the guardians or parents but is necessary before evaluating the housing application.

Membership and Age Requirement

To submit a Housing Application for the allocation of a Rental Unit, the Applicant must be: a Member or a Non-member with primary care of a minor Member child and provide their status number; and eighteen (18) years of age or older, unless there are extenuating circumstances. Some of the extenuating circumstances that may be taken into account when deciding whether to accept a Housing Application from an Applicant who is under the age of eighteen (18) are:

- health or safety issues affecting the Applicant and/or any dependents;
- overcrowding in the Applicant’s current residence;
- accessibility;
- family violence;
- child welfare;
- the fact the Applicant has withdrawn from parental control;
- marital breakdown and/or changes in the Applicant’s marital status;

- the fact the Applicant's current residence was destroyed or rendered uninhabitable by fire or as another consequence of circumstances of Force Majeure
- Force Majeure

Income Requirement

The Applicant must provide evidence of sufficient income to support the Rent payable, such as pay stubs, training allowance, or income/social assistance documents, or a letter of employment.

Arrears and Rental History

Applicants must be in good standing with Malahat Nation to be eligible for a rental unit. Good standing means that any Arrears are paid in full or an Arrears Agreement has been created between the Tenant and the Housing Department.

If the Applicant was previously Evicted from a Nation-Owned Home, Malahat Nation and the Housing Department reserve the right to reject the Applicant's Housing Application for this reason. The Housing Department shall act in the best interest of the Nation when considering this circumstance.

If the Applicant previously caused damage to a Nation-Owned home, Malahat Nation and the Housing Department reserves the right to require a damage deposit exceeding one month's rent to protect the Nation's housing stock.

Safety, Overcrowding, and Medical Issue Considerations

Due to capacity issues, the Scoring Application Guide will be used to ensure that Applicants who do not already have access to safe housing will be given priority in housing allocations.

Changes to Household Composition

Rental Unit allocations are decided based on the information in Housing Applications, including information on Household Composition. If there are changes to Household Composition after an allocation is made, the Housing Department may reassess the allocation. If it is determined that the allocation is no longer appropriate because of changes to the Household Composition, the Rental Agreement may be terminated in accordance with its terms and if the Tenant submits a new Housing Application it will be placed on the Waiting List.

If the Housing Department determines that a Tenant intentionally provided untrue or inaccurate information about Household Composition on the Housing Application, and the allocation has already been made, the Tenant may be Evicted.

Incomplete Applications

If applications are found to be incomplete, the housing department will do as follows:

1. Contact the applicant at least 3 (three) times to give them a chance to complete the application and;
2. Send a letter to their listed address notifying including contact information and in-person office hours.

3.3 Criteria for Deciding Rental Unit Allocations

Providing safe, affordable and energy efficient housing for all Members is a priority for Malahat Nation. Unfortunately, the need for Rental Units often exceeds capacity and available funding.

A completed Housing Application will include the information needed to score the Housing Application in accordance with the Application Scoring Guide. The Application Scoring Guide provides an unbiased assessment of the Applicant's current living conditions, affordability analysis (ability to pay utilities and rent) and confirmation of Household Composition.

The size of unit considered for each application will be based upon the number of bedrooms required stated on the housing application by the applicant. It is the applicant's responsibility to request the number of bedrooms in accordance with the National Occupancy Standard.

If the number of bedrooms requested are not in accordance with the National Occupancy Standard applicants must provide the housing department with information explaining the extenuating circumstances that support their request. It is the responsibility of the applicant to update the housing department if the number of occupants that they wish to reside in their unit changes from what they have stated on their application.

Deviations from the National Occupancy Standard will only be made when the Housing Department has determined that the occupants will remain in a safe living situation. Any deviations from the National Occupancy Standards are required to be approved in writing by the CAO.

To provide a fair and transparent method for allocating Rental Units and to ensure that Rental Units are allocated to Applicants on the basis of relative merit and in accordance with the community's housing goals and this Housing Policy, the following procedure will be followed:

- Completed Housing Applications must be submitted to the Housing Department by the Applicant and must be updated by the Applicant on an annual basis to remain on the Waiting List;
- The Housing Department will score each completed Housing Application it receives using the Application Scoring Guide; and
- When a Rental Unit becomes available, the Housing Manager will allocate Rental Units on the verified scores of Active Housing Applications and, if necessary, the Household Composition of eligible Applicants.

When reviewing scores and making recommendations for allocations, The Housing Manager must follow the conflict of interest guidelines.

If two Housing Applications receive the same score and the Household Compositions of each Applicant are equally suited to the available Rental Unit, the tie maybe broken by who applied first according to the dates recorded on the Housing Applications.

Once the housing department has evaluated all relevant applications, The Allocation Review form will be filled out summarizing the process and recommending to the CAO a specific allocation. Upon review that the process was properly followed, the CAO may then affirm the designation by signing the Allocation Review. At this point the home will be allocated to the appropriate applicant and the Housing Manager may sign the lease.

3.4 Emergency Shelter

From time to time, the CAO may authorize emergency shelter on a temporary basis with a periodic tenancy, which will typically be month-to-month. Emergency shelter may not offer all of the equipment, services, and occupancy latitude standard in permanent housing. Specifically, neither guests nor subleases will typically be permitted in emergency shelter.

Members who wish to be considered for emergency shelter should contact the Housing Department and explain their need. The Housing Department will gather information to provide to the CAO, but will not require a full Rental Application and customary application evaluation. The requirement that rental vacancies be advertised for a standard amount of time shall not apply to emergency shelter.

When emergency shelter is provided, a Rental Agreement will be signed and rent will be paid in accordance with this policy. All tenant responsibilities in this Housing Policy shall apply.

If a member resides in emergency shelter and wishes to apply for a permanent rental unit, he or she shall submit a Housing Application to be scored in accordance with this Policy. The applicant shall be presumed to reside in temporary housing, and need not submit additional proof of this to the Housing Department.

3.5 Rental Agreement

The Rental Agreement has been developed to protect the Rental Unit, the Tenant and Malahat Nation. The Rental Agreement sets out the rights and obligations of the Tenant and of Malahat Nation.

For the duration of the Rental Agreement, the Rental Unit is the Tenant's home and the Tenant is entitled to quiet enjoyment and exclusive use of the Rental Unit, reasonable privacy, and freedom from unreasonable disturbance.

Rental Agreements are prepared to be generally consistent with provincial residential tenancy legislation as well as the goals and rules set out by the Malahat Nation in this Housing Policy or otherwise.

Prior to entering into a Rental Agreement, the Housing Department will complete an in-person meeting with the Tenant to explain all aspects of the Rental Program the Rental Agreement and this Housing Policy, including all rights and obligations of Tenants, charges payable by Tenants and consequences of breaching the Rental Agreement and/or this Policy.

Subject to Malahat Nation policies, each Rental Agreement shall describe the Tenant's responsibility for Rent payments, regular Rental Unit maintenance, utility payments, and any services provided to the Rental Unit by Malahat Nation, including without limitation, garbage pickup and snow removal.

Rental Agreements shall be signed by the Chief Administrative Officer, or the Housing Manager if authority has been specifically delegated, and the Tenant prior to the Tenant occupying the Rental Unit. All Tenants must sign a Rental Agreement. The Housing Department shall keep the original Rental Agreements and provide copies to Tenants.

If the Tenant is receiving income/social assistance, the Rental Agreement must be provided to the Band Social Development Worker (BSDW) in the Community Programs Department by the Tenant to ensure eligibility for Shelter Allowance payments; If approved by the BSDW, this must be

communicated with the Housing Department.

Rental Agreements shall be reviewed and renewed by the Tenant annually.

Tenants and/or the Housing Department shall also update Rental Agreements when needed to reflect any policy updates, or changes to the list of occupants, Tenant contact information or Rent rates. For greater clarity, **all** Rental Agreements shall be renewed by April 1st of every year unless the rental agreement has been signed within 90 days of April 1st. If a Rental Agreement is not renewed, the Rental Agreement shall remain in effect as a month to month tenancy on the same terms. A month to month tenancy may be terminated by Landlord or Tenant at any time by providing 30-day written notice. In the case of a Tenant terminating the agreement, the Tenant shall be responsible for payment of any rent coming due within the 30-day period.

3.5.1 Notice

Unless otherwise modified by this agreement, Notice must be provided as follows:

Notice to the Tenant may be given by:

- i. hand delivery to the Tenant;
- ii. ordinary or registered mail to the Tenant's residential address and/or to any alternate address providing by the Tenant;
- iii. leaving a copy with an Authorized Occupant or other adult that apparently resides with the Tenant;
- iv. leaving a copy in the Rental Unit's mail box or mail slot;
- v. attaching a copy to a door or other conspicuous place of the Rental Unit; or
- vi. transmitting a copy to a fax number or email address provided by the Tenant.

Notice to the Landlord may be given by:

- i) hand delivery to the Landlord's Housing Manager, receptionist, or housing department;
- ii) ordinary or registered mail to the Landlord's housing department;
- iii) leaving a copy in the Landlord's mail box or mail slot;
- iv) transmitting a copy to the Landlord's fax number or email address.

3.6 Tenant Responsibilities

Every person who lives in a Rental Unit has certain responsibilities which must be adhered to as conditions to for them to continue occupying the Rental Unit and property. In general, all individuals must comply with Malahat Nation laws, bylaws and policies, including the terms of this Policy.

All Tenants must occupy their home as their primary residence. If a Tenant no longer uses their home as their primary residence, they must advise the Landlord, who shall evaluate the applicability of a Sublease or Eviction in accordance with this Policy.

In addition, all individuals who have signed a Rental Agreement with Malahat Nation must comply with the terms of that agreement. **It is the responsibility of all individuals living in a Rental Unit to become familiar with and uphold all of their responsibilities and obligations.**

Tenants must read, understand and agree to adhere to this Policy.

The following is a non-exhaustive list of some of the key responsibilities of Tenants with respect to Rental Units:

- enter into and sign a Rental Agreement at the beginning of any new tenancy and prior to moving into a Rental Unit;
- attend and participate in the move-in inspection;
- enter into and sign a new Rental Agreement each year;
- comply with all the terms of the Rental Agreement and this Policy;
- pay Rent in full, regularly and on time as per the terms of the Rental Agreement and this Policy;
- if in Arrears, enter into an Arrears Agreement with the Housing Department to address repayment of the Arrears;
- ensure that all utilities and other services are in the Tenant's name (or the name of another person who has agreed to pay for the utilities for the Rental Unit), so that utility companies and other companies do not forward bills to Malahat Nation;
- pay for heating, electricity and other utilities;
- keep the Rental Unit, yard and surrounding area in good, clean and sanitary condition as per the community standard;
- remove junk vehicles (cars, trailers, recreation boats, etc.) that are uninsured, not road worthy or otherwise inoperable and other rubbish where it poses a health, environmental or safety hazard;
- perform minor maintenance on the Rental Unit and prevent damage from occurring;
- obtain written permission from the Housing Department, including any required building permits or other permits or licenses required under this Policy, an agreement, or any other Malahat Nation policies or laws, before commencing any major repairs, renovations or improvements to the Rental Unit or property;
- ensure all renovations and/or repairs meet building code requirements, and pay as Additional Rent any expenses incurred by the Housing Department to bring renovations or repairs into compliance with the building code, should such work be required;
- pay for the cost of repairing any damage to the Rental Unit that is caused by the deliberate or negligent acts or omissions of the Tenant(s), Authorized Occupant(s), and/or guest(s). The Tenant may only repair such damage themselves with the written permission of the Housing Department; Repairs must be made within 30 days of written notice.
- when maintenance is being conducted on the Rental Unit, ensure that the area where repairs are being done is free of clutter and waste;
- notify the Housing Department prior to building a fence or digging in the yard and/or area surrounding the Rental Unit to ensure that no underground utility lines are disturbed;
- maintain insurance of personal property in the Rental Unit. Should disaster strike, including structural and utilities failures, Malahat Nation will not be responsible for the loss of any personal property;

- indemnify and save harmless Malahat Nation from all liabilities, fines, suits and claims of any kind of which Malahat Nation or the Housing Department may be liable or suffer by reason of the Tenant's occupancy of the Rental Unit;
- immediately notify the Housing Department when planning to vacate or leave a Rental Unit for more than 30 days; and
- respect the rights and privacy of neighbors.

Tenants must not:

- assign or sublet any Rental Unit except in accordance with this Policy;
- make any improvements or alterations to a Rental Unit, which may render void or voidable any policy of insurance held by Malahat Nation generally and/or the Housing Department specifically;
- sell, transfer or otherwise dispose of any appliances, or other equipment owned by Malahat Nation without direct written approval from Malahat Nation;
- use the Rental Unit, or allow the Rental Unit to be used, for any purpose other than as a residential dwelling for the Tenant, Authorized Occupants, and/or guests, unless other arrangements have been made with the Housing Department in writing;
- conduct business activities of any kind on, in or around the Rental Unit, unless the Tenant has obtained the express written approval of the Housing Manager and has provided proof of adequate insurance.

3.6.1 Authorized Occupants

The Rental Agreement shall list all Authorized Occupants. Anyone who enters the home to remain temporarily is a guest. Guests may reside in the home temporarily for a period of 20 consecutive days, to a total of 30 days in any six-month period. If any Guest wishes to remain in the home for more than 20 consecutive days or 30 days in a six-month period, the Tenant may request that the Housing Department update the Rental Agreement to include this person as an Authorized Occupant. This will be done at the sole discretion of the Housing Department. It is expected that Tenants will respect the spirit of this rule, and the Housing Department shall have the right to refuse Guest access at any time.

3.6.2 Pets

No pets are permitted inside or outside the Rental Unit without the prior written approval of the Housing Manager, which must be signed by both the Housing Manager and Tenant and appended to the rental agreement.

If Tenant wishes to have a pet in the Rental Unit, Tenant shall schedule a meeting with the Housing Manager to evaluate if it is appropriate.

If a pet is allowed, a Pet Deposit will need to be supplied and will be the equivalent of one month of rent per pet in the household.

If a pet is allowed, a description of the Pet including Registered Tag information must be in the agreement.

If a pet is allowed, the Tenant shall meet his/her obligations for care of the Rental Unit and property as outlined in this Agreement, the Housing Policy and any addendum to this Agreement made in respect of the pet.

If a pet is allowed, the Tenant shall have to pay for any and all damage done to the Rental Unit and property by the pet.

Additional terms and conditions may be required at any time without a requirement of prior notice. The Landlord is obligated to inform the Tenant of any such changes.

3.6.3 Smoking

Smoking of any combustible material in the Rental Unit or within ten (10) meters of another Rental Unit is strictly prohibited.

3.6.4 Cannabis Cultivation

Cultivation of cannabis in the Rental Unit or on the Residential Property is strictly prohibited pursuant to Section 4-2(2) of the Malahat Nation Cannabis Control Law.

3.6.5 Insurance

The Tenant is solely responsible for insuring his or her personal property against loss from any and all causes. The Landlord, including the Malahat Nation Housing Department, shall in no event be responsible for the loss, destruction, theft of, or damages to, such property.

The Tenant shall indemnify and save harmless the Landlord from all liabilities, fines, suits, and claims of any kind whatsoever or which the Landlord may be liable or suffer by reason of the Tenant's occupancy of the Rental Unit.

The Tenant shall not do, or omit to do, anything which may render void or voidable any policy of insurance held by the Landlord generally and/or the Malahat Nation Housing Department specifically.

The Tenant shall be responsible for paying the deductible on the Landlord's insurance for any claims arising as a result of wilful damage to the Rental Unit caused by the Tenant, an Authorized Occupant and/or guest.

The Landlord shall insure the Rental Unit against damage caused by fire, or as a consequence of circumstances of Force Majeure.

3.7 Payment of Rent

All Tenants are expected to pay Rent. Rental payments contribute toward the cost of housing and are used to protect the community's investment in Nation-Owned Houses and to maximize housing resources.

All payments are to be made to the Finance Department and the payee is "Malahat Nation."

Rent is due on the on the first (1st) day of each month. All Tenants occupying a Rental Unit have agreed to pay Rent, as stated in their signed Rental Agreements with Malahat Nation.

The Landlord shall provide a receipt for any and all rent payments.

Tenants receiving income/social assistance must make arrangements with the Band Social Development Worker (BSDW) in the Community Programs Department to ensure that Rent payments are made on their behalf to the Malahat Nation and are in compliance with Federal Law and policy. Once such arrangements are made, the BSDW will allocate Shelter Allowance for Rent in accordance with Federal Law and policy on the Tenant's behalf. Any remaining rental cost not covered by the Shelter Allowance will be the sole responsibility of the Tenant.

Malahat Nation employees who are in Arrears may make arrangements with the Housing Department to pay the Arrears through wage deductions. Malahat Nation employees not in Arrears can also make arrangements for wage deductions to pay their Rent.

3.8 Rental Rates/Universal Rental Regime

Malahat Nation employs a Universal Rental Regime which provides consistent rental rates for Malahat Nation homes.

The standardized base rental rates will be derived from the number of bedrooms in the rental unit and subject to downward modification based on the condition of the home.

They are as follows:

Studio home: 350.00 plus utilities
1 (one) Bedroom home: 500.00 plus utilities
2 (two) Bedroom home: 600.00 plus utilities
3 (three) Bedroom home: 700.00 plus utilities
4 (four) Bedroom home: 775.00 plus utilities
5 (five) Bedroom home: 850.00 plus utilities

This rental regime is applicable to all band owned homes on reserve, regardless of tenancy. It is applicable to all residents with a tenancy agreement.

CMHC homes Rental Agreements will have rates based on the CMHC operating agreement.

3.8.1 Services/Utilities

In addition to rent, Malahat Nation charges MTSA (Municipal Type Service Agreement) fees to cover municipal services such as garbage and street lights. This is because Malahat Nation has agreements with third party entities to supply these services to the Nation's residents.

MTSA fees are charged per bedroom as follows:

- 1 bedroom units: 18.80
- 2 bedroom units: 18.80
- 3+ bedrooms: 37.60

Residents who have woodstoves and would like to purchase firewood from Malahat Nation can do so for \$25 per month. This covers three cords of wood per year.

Malahat Nation provides Shaw internet and a home phone line for a reduced rate to tenants upon request.

3.9 Arrears Management

Collection procedures and the consequences of being in Arrears are further outlined in the Rental Agreement.

The following applies to all Tenants. Rent is due on the 1st (first) day of each month. The following procedure will be applied immediately after one Rent payment has been missed:

- If the Tenant fails to pay the Rent on time, the Landlord shall send the Tenant a first notice 30 days after the date the Rent came due. The Tenant shall immediately pay the arrears in full or meet with the Landlord to enter into an arrears agreement.
- If no payment has been received within 60 days after the date the Rent came due, and no arrears agreement made, a second notice shall be delivered along with a scheduled meeting time for a meeting between the Tenant and the Landlord to discuss the situation and to make arrangements for the payment of the arrears.
- If no payment has been received within 90 days after the date the Rent came due, and no arrears agreement made, a final notice shall be delivered to the Tenant advising the Tenant that they have five working days to make full payment of the arrears, enter into an arrears agreement or vacate the Rental Unit.
- Every effort will be made to avoid an Eviction. If 95 days after the date the Rent came due the arrears have not been paid or the Tenant has failed to enter into and/or comply with the terms of an arrears agreement, an eviction notice shall be delivered to the Tenant and the Tenant shall have 10 days to vacate the Rental Unit.

Both the Tenant and the Housing Department must agree to all Arrears Agreements in writing. The Arrears Agreement will include the amount of each repayment installment and the date the payment is due. If a Tenant receives two Final Notices within a fiscal year, the Tenant's Rental Agreement will be terminated and an Eviction Notice will be issued to the Tenant.

The Tenant may appeal an Eviction by following the appeal process outlined at Section 7.0 of this Policy.

3.10 Maintenance

Malahat Nation Responsibilities

Malahat Nation, through the Housing Department, is responsible for major repairs and replacements, repairs arising from normal wear and tear, and preventative maintenance necessary to ensure compliance with health and safety standards and/or to extend the useful life of the Rental Unit.

Major repairs and replacements (subject to availability of funding) are generally defined as follows:

- roof repairs;
- plumbing repairs;
- hot water tank replacement;
- electrical work;
- major structural work;

- electrical fixture replacement;
- repairing appliances owned by Malahat Nation (as long as they were not damaged or overloaded as a result of the intentional or negligent acts or omissions of a Tenant, Authorized Occupant, or guest);
- replacing broken windows (as long as they were not damaged as a result of the intentional or negligent acts or omissions of a Tenant, Authorized Occupant, or guest);
- repairs to floors, doors and cupboards as needed; and
- locks (when replacement is necessary to ensure the security of the Rental Unit and/or Tenant or where the lock is no longer functioning properly).

The Housing Department will keep a record of all maintenance and repairs carried out on a Rental Unit including reason for the repairs, repair items and costs.

Malahat Nation and the Housing Department may provide additional services to Tenants, such as garbage collection, sewer and water services. The provision of such services shall be on a case by case basis and shall require an accompanying agreement.

Tenant Responsibilities

In addition to those responsibilities outlined in Section 3.6 of this Policy, Tenants are responsible for the general maintenance, cleaning, repairs and replacements outlined in the Rental Agreement. A schedule of specific Tenant maintenance responsibilities is included in the Rental Agreement.

The Tenant will be solely responsible for the cost of all repairs and replacements required due to the negligent or intentional acts or omissions of the Tenant(s), Authorized Occupants, and/or guests.

Where damage has been caused by the negligent or intentional acts or omissions of the Tenant(s), Authorized Occupants, and/or guests, the Housing Department will take the following approach:

- if the damage is minor (less than \$1,000), the Housing Department will carry out the repair and/or replacement, and the costs will be charged back to the Tenant as Additional Rent and any amount not paid will constitute Arrears; and
- if the damage is major (over \$1,000), the Housing Department will provide the Tenant with a written notice including an estimate of the cost for the Housing Department to carry out the repair and/or replacement. The Tenant will have thirty (30) days from the date on the notice to make arrangements with the Housing Department to pay for the repair and/or replacement. Failure to enter into a payment arrangement within thirty (30) days, or failure to comply with the payment arrangement, may result in Eviction.

Tenants must immediately report to the Housing Department any accident, break or defect in water, heating or electrical systems, or in any part of the Rental Unit and its' equipment in general.

Tenants are required to keep their Rental Unit and surrounding area clean, the grass cut and free of refuse, animal waste, uninsured and/or inoperable vehicles or vessels, vehicle parts, equipment, appliances, and debris such as building materials. Tenants who fail to comply with this requirement will be given a written notice to remove the junked vehicles and/or garbage, after which the Housing Department will remove the items at the Tenant's expense. Failure of the Tenant to remit payment for such costs is a breach of the Rental Agreement.

When the Housing Department is to perform maintenance duties, the Tenant must ensure that the area where maintenance is being performed is safe and free of clutter, waste or other hazards.

3.10.1 Cleaning Support

Malahat Nation and will provide cleaning services to all Tenants at a reasonable rate. This is an optional service intended to support Tenants and preserve the housing stock.

If the Tenant chooses not to utilize the service, they will be solely responsible for maintaining the cleanliness of the property as outlined in §3.6, §3.10, and their rental agreement.

In the event a Tenant opts out from utilizing the cleaning service, after thirty (30) days the Housing Department will inspect the property in accordance with §3.12 to ensure compliance with the housing policy and rental agreement. The Housing Department will provide the Tenant with a list of any violations of the maintenance standards and give the Tenant 30 days to correct the issues.

If after a second inspection the property is still in violation, the cleaning service will become mandatory and the charge for the cleaning will be added to the tenancy agreement. If the Tenant refuses the cleaning service or prevents the cleaning service from entering the property, any further violations of the required maintenance will be considered a violation of the housing policy and/or rental agreement and the processes outlined in §3.18 will be initiated.

3.10.2 Emergency Repairs

Emergency repairs are repairs that are urgent and necessary for the health and safety of persons or the preservation or use of the Rental Unit, and generally limited to repairs to:

- i) major leaks in pipes or the roof;
- ii) damaged or blocked water or sewer pipes or plumbing fixtures;
- iii) the primary heating system;
- iv) the electrical system
- v) deficiencies in the integrity of the structure; and
- vi) damage that jeopardizes the Rental Unit or the health and safety of persons.

Tenants are advised to immediately call 911 for any incidents that immediately threaten the wellbeing of the occupants. This includes fire, etc.

The Landlord shall give to the Tenant in writing, the name and telephone number of both the designated contact person for emergency repairs and a secondary contact.

If emergency repairs are required, the Tenant shall contact the Designated Contact immediately and without delay by both phone and text message if possible.

If after 30 minutes no response has been received from the Designated Contact, Tenants are instructed to contact the Secondary contact person by both phone and text message if possible.

If after 15 minutes no response has been received from the Secondary Contact, the Tenant may undertake the emergency repairs and claim reimbursement from the Landlord upon presentation of a receipt.

If the Tenant undertakes emergency repairs in accordance with this section, the Landlord may take over completion of the emergency repairs at any time.

3.11 Renovation of Rental Units

Tenants must receive written permission from the Housing Department prior to making any major repairs, alterations, additions or improvements to a Rental Unit and, where applicable, are responsible for obtaining any permits or other permits or licenses requires under any Malahat Nation policy or law. A qualified inspector shall review any such alterations, additions, or improvements to ensure they meet applicable codes, laws and policies.

If a Tenant makes any alterations, additions or improvements to a Rental Unit without first obtaining permission from the Housing Department, the Tenant will be solely responsible for returning the Rental Unit to its original condition at the Tenant's own expense and at no cost to the Malahat Nation.

Tenants will not be reimbursed for any alterations, additions or improvements they have completed at their own expense.

Except where otherwise agreed to in writing by the Parties, all improvements to the Rental Unit will become the property of the Landlord

3.12 Inspections

If, at any time, the Housing Department and a qualified inspector conduct an inspection and determine that the Rental Units is in such condition that it should be condemned or has severe structural damage posing a hazard to health and/or safety, then any person occupying the Rental Unit will be removed and placed into temporary housing. A Tenant removed from such a home shall submit a Housing Application which will be given priority over other Housing Applications on the Waiting List if is not possible to move them back into their original unit

However, if a Rental Unit is condemned or has severe structural damage posing a hazard to health and/or safety because of the deliberate or negligent acts or omissions of the Tenant, or their Immediate Family and/or guests, the Tenant will be deemed to have been Evicted.

Regular Inspections

Malahat Nation and the Housing Department may inspect Rental Units on a quarterly basis and/or at any other time **with twenty-four (24) hours written notice**. The inspection will be carried out to record the condition of the Rental Unit. These inspections will identify the need for any preventative maintenance as well as to determine any misuse or negligence on the part of the Tenant(s), any Authorized Occupants, and/or guests.

Move-In Inspection

A move-in inspection will be completed on the day the Tenant is entitled to take possession of the Rental Unit or on another mutually agreed upon day that is prior to the Tenant taking possession of the Rental Unit.

The move-in inspection will be completed jointly by the Tenant and a representative of the Housing Department. The Tenant MUST be present during the inspection.

The Housing Department representative will complete a Home Inspection that confirms the condition of the property. The report must be reviewed and signed off by both the Housing Department representative and the Tenant.

Move-Out Inspection

A move-out inspection will be completed by the Housing Department and Tenant on or after the day the Tenant ceases to occupy the Rental Unit and prior to any new Tenant taking possession of the Rental Unit.

The Housing Department must complete a Home Inspection Form. Subject to the following paragraph, both the Housing Department and Tenant must sign the Home Inspection Form and the Housing Department must give the Tenant a copy of the form.

The Housing Department may perform the inspection and complete and sign the Home Inspection Form without the Tenant if the Housing Department has provided twenty-four (24) hours' notice of the inspection and the Tenant fails to participate, has abandoned the Rental Unit or has been Evicted.

Any repairs to the Rental Unit that are required as the result of the deliberate or negligent acts or omissions of the Tenant or their Immediate Family, Authorized Occupants, and/or guests shall be confirmed in writing to the Tenant and cost recovery will be pursued by the Housing Department. Tenants will not be billed for regular wear and tear.

3.13 Fires

After a fire has been reported, the Housing Department shall ensure that there is a full investigation and that the following information is documented and retained:

- the name of the Rental Unit Tenant;
- location of the Rental Unit;
- how the fire was started;
- report of injuries or fatalities; and
- extent of the damage to the Rental Unit.

The Housing Department shall also:

- report to the fire to authorities, as required; and
- file a copy of any official fire report.

Accidental fires will be covered under Malahat Nation's insurance and the deductible will be paid by Malahat Nation. If it is determined that a fire was caused by the deliberate or negligent act or omission of the Tenant, or by the Immediate Family, Authorized Occupant, and/or guest of the Tenant, the Tenant will be responsible for paying any amounts that are not covered by Malahat Nation's insurance policy. Malahat Nation is not responsible for insuring the personal property of Tenants and will not be responsible for the personal property of Tenants which is destroyed by fire.

Tenants of Rental Units rendered uninhabitable by fires will be required to re-apply for a new Rental Unit allocation. Where the fire was accidental, the Tenant shall submit a Housing Application which will

be given priority over other Housing Applications already on the Waiting List. However, if it is determined that the fire was the result of a deliberate or negligent act or omission of the Tenant, or their Immediate Family and/or guests, the Tenant will be deemed to have been Evicted.

3.14 Abandoned Units

Tenants who have abandoned a Rental Unit will be deemed to have been Evicted from the Rental Unit. A Rental Unit will be deemed abandoned when:

- the Rental Unit has been unoccupied for more than sixty (60) days by the Tenant named in the Rental Agreement;
- no Rent payments been made for more than sixty (60) days; and
- no utility payments have been made for more than sixty (60) days.

Upon a Rental Unit being deemed abandoned, an eviction notice will be issued to the Tenant to confirm their residency. The notice will be hand delivered to the Tenant, placed in the Tenant's mailbox and/or taped to the Rental Unit door. The Tenant must respond to the notice within fifteen (15) days. In cases where no response is received within fifteen (15) days, the Rental Unit will be re-allocated in accordance with this Policy and the Waiting List pending any necessary repairs.

Any Arrears and the cost of repairing any damage not caused by regular wear and tear shall be the responsibility of the Tenant that abandoned the Rental Unit, and will all be a debt owed to and recoverable by Malahat Nation. Similarly, any costs associated with the removal of personal effects (furniture, clothing, etc.) left in an abandoned Rental Unit, shall be the responsibility of the Tenant that abandoned the Rental Unit and will be a debt owed to and recoverable by Malahat Nation. Personal effects left in the house will be held for one month. Malahat Nation is not liable for any lost or damaged personal effects in the event of an abandoned unit.

3.15 Death of a Tenant

In the event of a Tenant's death and there are still Tenants listed on the lease, the lease is considered valid unless the remaining Tenant(s) wishes to terminate the lease.

In the event of a Tenant's death, the CAO or, if explicitly delegated, the Housing Manager, may reassign the deceased Tenant's Rental Agreement. Members already living in the Rental Unit will be given priority in the following order:

- Spouse of the deceased Tenant;
- adult children of the deceased Tenant that are eighteen (18) years of age or older;
- legal guardian(s) of any minor children of the deceased Tenant; and
- a Member who lives in the Rental Unit who is willing to assume all Tenant responsibilities for the Rental Unit, including the responsibility of paying Rent.

In order for a person listed above to begin to occupy or to continue to occupy the Rental Unit, a new Rental Agreement must be entered into and signed by the new Tenant and the Housing Department. If none of the above listed persons requires the Rental Unit, the Rental Unit will be re-allocated in accordance with this Policy and the Waiting List.

In the event that the person who takes priority is a Spouse or legal guardian who is not a Member, but has a minor Member child, the Non-member Spouse or legal guardian may continue to occupy the Rental

Unit with the Member child until the child is no longer a minor. Once the Member child has reached the age of majority (eighteen (18) years of age), the Member child may enter into a Rental Agreement and the Non-member Spouse/parent/guardian may continue to occupy the home as an authorized occupant in accordance with this Policy.

For single Tenants, Tenants with no eligible next of kin, and/or Tenants who live alone, the Housing Department will wait two (2) weeks to consult with family members. After the two (2) week period, the family, friends or executor(ix) will be required to make the necessary arrangements for access to the Rental Unit and will remove all the personal belongings within another two (2) weeks. The Housing Department will then re-allocate the Rental Unit in accordance with this policy and the waiting list.

3.16 Marital Breakdown

In the case of marital breakdown where there are no children of the relationship, both parties are Members and the Rental Agreement is in both names, Malahat Nation will ask the Tenants to work out an arrangement where one of the Tenants retains the right to possession of the Rental Unit. If the Tenants are unable to work out an arrangement within thirty (30) days, both parties will submit a Housing Application to the Housing Department and the Housing Department will score the applications using the Application Scoring Guide. The highest score will retain possession of the Rental Unit and the right to occupy it. Upon the Housing Manager or the designated Housing Department employee(s) allocating the Rental Unit, the new Tenant must enter into and sign a Rental Agreement with the Housing Department.

In the case of marital breakdown where there are no children of the relationship, both parties are Members but the Rental Agreement is in only one Member's name, the Rental Agreement will remain in that Member's name and he/she will retain possession of the Rental Unit and the right to occupy it.

In the case of marital breakdown where there are no children of the relationship and one of the parties is a Non-member, the Rental Agreement will remain in the name of the Member.

In the case of marital breakdown where there are children of the relationship, the following rules will apply:

- If both parents are Members, the parent who has primary care of the child (or children) will retain possession of the Rental Unit and will have the right to occupy it. If the parent with primary care of the child (or children) is not named as a Tenant on the original Rental Agreement, then he/she will be required to enter into a new Rental Agreement.
- If the parent with primary care of the child (or children) and the child (or children) are all Non-members, the parent will be offered a new tenancy agreement allowing them to reside in the rental unit for up to six (6) months. At the conclusion of six (6) months the parent will have the option to sign a new lease if they are eligible under this housing policy. If they are not eligible tenants, they will have to vacate the unit at the conclusion of the 6 month lease.
- If the child (or children) is a Member and the parent with primary care of the child (or children) is a Non-member, the Non-member parent with primary care of the child (or children) will retain possession of the Rental Unit and will have the right to occupy the Rental Unit so long as the Member child (or children) lives there and the Non-member parent retains primary care of the child (or

children). The Non-member parent will be required to enter into a Rental Agreement. Once the Member child has reached the age of majority (eighteen (18) years of age), the Member child may enter into a Rental Agreement and the Non-member Spouse/parent/guardian may continue to occupy the home as an authorized occupant in accordance with this Policy.

3.17 Subleases of Rental Units

Prohibited Transfers

Rental Agreements and the right to occupy a Rental Unit may not be transferred or assigned without the prior written approval of the Housing Department.

A Tenant **cannot** transfer a Rental Agreement nor the right to occupy a Rental Unit because the Tenant no longer requires the Rental Unit. In such cases, the Tenant may move out of the Rental Unit after providing the Housing Department with thirty (30) days' notice. The Rental Unit will then be re-allocated in accordance with this Policy and the Waiting List. However, the Housing Department reserves the right to review such situations on a case by case basis.

Application Procedure

Under certain circumstances, a Tenant may apply to the Housing Department for permission to sublet his/her Rental Unit to another Member.

Tenants may apply to sublet a Rental Unit for any of the following reasons:

- health reasons (e.g. the Tenant requires long-term hospitalization);
- changes to social assistance eligibility;
- educational reasons (e.g. the Tenant is going away to attend school)
- employment reasons; or
- for other reasons the Housing Department deems appropriate.

Tenants applying for a Sublease must submit the following to the Housing Department:

- a completed Sublease Application Form (Available upon request from Housing Department); and
- a letter of explanation outlining the situation.

Sublease Applications must be accompanied by supporting documentation as follows:

- for health-related Subleases, the Tenant must provide a letter from his/her physician stating the need for extended hospitalization or out of town treatment and an estimate of how long the hospitalization or out of town treatment will be required; or
- for education-related Subleases, the Tenant must provide a copy of his/her letter of acceptance or other proof of enrolment from the educational institution the Tenant will be attending.

The Housing Department will review Sublease Applications and the CAO approve Subleases where a Sublease is appropriate in all the circumstances on a case by case basis.

Sublease Agreement

Once the Housing Department has approved a Sublease, the Subtenant taking over the Rental Unit will enter into a Sublease Agreement with Malahat Nation.

The Sublease Agreement must state:

- the terms and conditions of the Sublease, including that the Subtenant will be responsible for paying Rent and maintaining the Rental Unit in good condition;
- that the Subtenant will have all the responsibilities of a Tenant for the life of the Sublease Agreement;
- that Malahat Nation may enforce the terms of the Sublease Agreement against the Subtenant as though the Subtenant were the primary Tenant;
- that the Subtenant accepts the Rental Unit on an “as is” basis;
- that by signing the Sublease Agreement the Subtenant acknowledges he/she is aware of his/her responsibility for securing his/her own accommodations after the Sublease Agreement expires; and
- when the Sublease Agreement expires and terminates and/or if the Sublease Agreement may be renewed with proof of enrolment in an educational institution.

The maximum term for a Sublease Agreement will typically be two (2) years. However, if the Tenant is applying for a Sublease to attend school, the length of the sublease may be for the duration of the program he/she is enrolled in. The Tenant must provide the Housing Department with proof of enrolment every year or the Sublease and the Sublease Agreement will be terminated. For greater certainty, the Sublease Agreement must state when it and the Sublease expires and/or if it may be renewed with proof of enrolment in an educational institution.

A Sublease may be cancelled at any time upon the mutual agreement of the primary Tenant and the Subtenant. The Tenant and Subtenant must provide the Housing Department with thirty (30) days’ notice of their desire to cancel a Sublease, if they fail to do so the Housing Department may refuse to terminate the Sublease Agreement for a period of up to thirty (30) days.

Survival of the Rental Agreement

The Rental Agreement between Malahat Nation and the original Tenant remains in force for the duration of the Sublease and survives the expiration and/or termination of the Sublease Agreement. The original Tenant is ultimately responsible to ensure that all the obligations of the Rental Agreement, including paying Rent and utilities, are met. This means that if the Subtenant breaches the terms of the Sublease Agreement and Malahat Nation is unable to recover Arrears, costs, damages or other expenses from the Subtenant, the original Tenant will be responsible.

If the Subtenant is Evicted by Malahat Nation or abandons the Rental Unit, the original Tenant will be considered to have been evicted as well.

If a Tenant allows another Member or person to reside in a Rental Unit without the approval of the Housing Department, the Tenant will be responsible for any damage to the Rental Unit and may be subject to Eviction.

3.18 Eviction & Termination of a Rental Agreement

Malahat Nation may Evict a Tenant where a Rental Agreement is terminated due to breach of this Housing Policy and/or the Rental Agreement. Malahat Nation considers Eviction to be a last resort to be taken when all attempts to resolve the issues have failed. Prior to taking Eviction action, the Housing Department will make every effort to provide reasonable warning(s) and may attempt to meet with the Tenant to reinforce the consequences of failing to resolve the breach of the Rental Agreement and/or this Policy

Any person occupying a Rental Unit without the permission of the Housing Department will be Evicted immediately and without notice.

Tenants or persons within a Rental Unit may be Evicted by the CAO for any of the following reasons. This list is non-exhaustive and is intended solely to provide examples of possible bases for eviction.

1. making false declarations on a Housing Application that results in a housing allocation;
2. being convicted of engaging in illegal activities in a Nation-Owned House
3. causing willful damage to a Rental Unit and/or property within or on a Rental Unit that belongs to Malahat Nation
4. the Tenant, an Authorized Occupant and/or guest has caused a nuisance or an on-going disturbance to the community or has adversely affected or is likely to adversely affect the health, safety or well-being of the community;
5. the Tenant ceases to be a member of Malahat Nation or there are no Authorized Occupants who are members of Malahat Nation;
6. the Tenant does not repair, clean and/or maintain the Rental Unit as required under this Agreement;
7. the Tenant fails to fulfill the terms of their Arrears Agreement; or
8. breaching a term of this Policy and/or a Rental Agreement or Sublease Agreement.

For clarity, the Housing Department recommends evictions to the CAO, who makes the final decision whether to Evict a Tenant. If a Housing Committee has been established, the CAO may delegate authority over this section to the Housing Committee.

Disturbances & Complaints

Complaints regarding a Tenant must be provided in writing and submitted to the Housing Department. Complaints will only be discussed with complainants and the Tenant who is the subject of the complaint and the identity of complainants will be kept confidential. If, in the opinion of the Housing Department, a Tenant is causing a nuisance or an on-going disturbance, a warning may be issued.

Warnings

If it has been determined a breach of the Rental Agreement has occurred, the Housing Department will undertake the following steps:

1. First Written warning;
2. Second Written warning(s); and
3. Eviction.

Tenants who have received one (1) or more warnings but have not been Evicted will return to good standing with the Housing Department provided they do not receive any additional warnings for at least one (1) year.

Eviction

When an eviction notice has been issued, the housing department will declare the tenancy ended for the tenant or occupant to whom the notice has been issued. If any or all others occupants are residing in the home they will need to come forward and sign a tenancy agreement with the Housing Department if they qualify for housing. They will be given first refusal of the occupying home. Upon receiving an eviction notice, the Tenant will have 10 days to vacate the Rental Unit and shall leave the Rental Unit in the condition required under § 3.17. At the conclusion of that 10 days the tenancy and the Tenant's rights under this agreement shall cease absolutely, without right of re-entry, and the Landlord or it's agent may re-enter the Rental Unit or any part of it, and thereafter have, possess, and enjoy it as if no Rental Agreement had been made.

Exigent circumstances

While every effort will be made to follow the aforementioned notice period, if exigent circumstances are present, the Housing Department may eliminate the notice requirement and reduce the time to vacate to as short as 24 hours. Exigent circumstances could include, but are not limited to: removing a Tenant who is a danger to other residents acting for the safety of the children, or removing a violent tenant.

If a Tenant is Evicted from a Rental Unit, the Housing Department may reject any subsequent Housing Application submitted by the former Tenant if it is in the best interest of the Nation.

Where the reason for Eviction is Arrears, the Tenant will not qualify for future housing until the Arrears are paid in full.

Notwithstanding the foregoing, Malahat Nation may consider Housing Applications of former Tenants who were Evicted at any time on a case by case basis.

3.19 Vacating a Rental Unit

All Tenants shall notify the Housing Department, in writing, thirty (30) days prior to vacating a Rental Unit. A notice to end this Agreement given by the Tenant the day before the rent is due in a given month ends the tenancy at the end of the following month. *[For example, if the Tenant wants to move at the end of May, the Tenant must make sure the Landlord receives written notice on or before April 30th.]*

In the event a Tenant vacates the home and there are still Tenants listed on the lease, the lease is considered valid unless the remaining Tenant(s) wishes to terminate the lease.

In the event a Tenant vacates the home and there is no other Tenant listed on the agreement, the CAO or, if explicitly delegated, the Housing Manager, may reassign the Tenant's Rental Agreement. Members already living in the Rental Unit will be given priority in the following order:

- Spouse of the vacating Tenant;
- adult children of the vacating Tenant that are eighteen (18) years of age or older;
- legal guardian(s) of any minor children of the vacating Tenant; and
- a Member who lives in the Rental Unit who is willing to assume all Tenant responsibilities for the Rental Unit, including the responsibility of paying Rent.

In order for a person listed above to begin to occupy or to continue to occupy the Rental Unit, a new Rental Agreement must be entered into and signed by the new Tenant and the Housing Department. If none of the above listed persons requires the Rental Unit, the Rental Unit will be re-allocated in accordance with this Policy and the Waiting List.

The notice required under this section must be in writing and must:

- i) include the address of the Rental Unit;
- ii) include the date the tenancy and this Agreement is to end; and
- iii) be signed and dated by the Tenant.

The Tenant shall vacate the Rental Unit by 1 p.m. on the day the tenancy and this Agreement is deemed to end and leave the unit in a re-rentable condition.

Re-rentable condition means that:

- i) floors are cleaned and washed;
- ii) walls are cleaned and washed;
- iii) carpets are vacuumed and cleaned and any stains are shampooed out;
- iv) all electric light bulbs are functioning and in place;
- v) the refrigerator and/or freezer is cleaned of all food and stains and defrosted and there are no debris under or behind the refrigerator and/or freezer;
- vi) the range is cleaned and free of all grease inside and out and free of all debris;
- vii) the stove and stove glass is clean and there is no debris under or behind the stove and all fuses for the stove are working;
- viii) all cupboards, closets, cabinets, etc. have been cleaned out;
- ix) all garbage has been removed from the Rental Unit; and
- x) the washer and dryer are cleaned inside and out and there is no debris under or behind the washer or dryer.

If a Tenant vacates a Rental Unit without informing the Housing Department, the Rental Unit may be deemed abandoned, the Tenant may be deemed to have been evicted and the Rental Unit may be re-allocated in accordance with this Policy and the Waiting List.

If the Tenant does not vacate the Rental Unit at the required date defined in the termination of rental notice, the Housing Department may obtain the services of law enforcement to assist with removing the Tenant.

A Tenant who leaves personal property in the Rental Unit after vacating the Rental Unit and is, therefore, no longer authorized to have access to the Rental Unit, must contact the Housing Department in order to enter the Rental Unit and remove the personal property within thirty (30) days of vacating the Rental Unit. After that time, the Housing Department may dispose of the personal property at its discretion. The Tenant will be responsible for any costs incurred by the Housing Department in disposing of the personal property, and these costs will be a debt owed to and recoverable by Malahat Nation.

Section 4.0 – Shelter Allowance Program

Section 4.0 – Shelter Allowance Program

4.1 Mortgaged Rental Units

In order to provide safe, affordable and adequate housing for all Members, Council may continue to offer Nation-Owned Houses on a rental basis where the mortgage(s) for the unit have been paid in full. Nation-Owned Houses that are no longer subject to a mortgage, were constructed and financed through the CMHC Section 95 program or bank financing and are occupied by a Tenant will be referred to as a Mortgaged Rental Unit for the purposes of this Policy.

This shall apply to new and existing Mortgaged Rental Units subject to the following:

- Mortgaged Rental Units are Nation-Owned Houses and remain the property of Malahat Nation unless and until they are purchased by a Member in accordance with section 5.2 of this Policy;
- once a mortgage has been paid in full, a new Rental Agreement shall be signed by the Tenant and the Housing Department;
- For Tenants that receive or are eligible for Income Assistance, a portion or whole amount of the rent may be paid, based on Income Assistance shelter rates and number of people/families living in the home.
- the Rental rate will be based on bedroom count and will be pro-rated if members within the household are over eighteen (18) years of age (or are sixteen (16) or seventeen (17) years of age and can demonstrate that he/she has withdrawn from parental control) or are employed;
- the Band Social Development Worker (BSDW) in the Community Programs Department must be updated on any changes to Household Composition or the persons occupying the home on a monthly basis;
- Rent and Additional Rent will be used to cover the cost of maintenance, insurance and services, including, but not limited to, services provided by the Malahat Nation, such as water and sewer service, garbage collection, snow removal, etc.; and
- funds collected as Rent from a Tenant of a Mortgaged Rental Unit will be segregated from Rent collected from Tenants of other Rental Units and will be used exclusively for paying for costs associated with that particular Mortgaged Rental Unit.

4.2 Rental of Privately-Owned Homes

A Homeowner of a Privately-Owned Home may rent out a portion of or all of the Privately-Owned Home to a Private Tenant through a private landlord / tenant arrangement. The Homeowner may set the rent and make conditions of occupancy without any prior approval of Council or the Housing Department as long as the arrangement is in compliance with all Malahat Nation bylaws.

Federal Law and policy provides the guidelines of eligibility that must be met in order for a person receiving income/social assistance to qualify for Shelter Allowance within a prescribed test. Members on income/social assistance wishing to rent a Privately-Owned Home must have a written and signed lease (rental) agreement with the landlord Homeowner in place before any rent can be paid with Shelter Allowance. The lease agreement must be pre-approved by the Band Social Development Worker (BSDW) in the Community Programs Department and Housing Department in order for the Private Tenant to be eligible for Shelter Allowance. A copy of the signed lease agreement must be provided to the BSDW and Housing Department.

In order to assist landlord Homeowners, a Sample Private Rental Agreement has been developed to protect the Privately-Owned Home, the Private Tenant and the Homeowner. The Sample Private Rental Agreement sets out the Private Tenant's obligations and the obligations of the landlord Homeowner. The Sample Private Rental Agreement was developed in order to meet AANDC requirements for shelter allowance.

It is the responsibility of the Homeowner to seek independent legal advice over the use of this Sample Private Rental Agreement. Malahat Nation is not liable for any actions/ liabilities as a result of implementing this Sample Private Rental Agreement. Malahat Nation is not responsible for upkeep, repairs, maintenance, and services to the Privately-Owned Home, except in the ordinary course or as otherwise provide in this Policy. All insurance is the sole responsibility of the landlord Homeowner and the Private Tenant.

Section 5.0 – Renovation Program

Section 5.0 – Renovation Program

5.1 Renovation Program

Housing would like to provide a renovation program that is fair to all community members.

Currently, the bulk of housing renovation income is derived from external agencies. As housing relies heavily on outside resources for renovation funding, we must abide by certain rules (CMHC/AANDC rules).

Housing would like to make sure that every eligible home will be considered for current and/or future renovations. We will also make sure that renovations are completed to B.C. building code standards.

Renovation differ from general maintenance of the home. While renovations consist of generally larger projects that change the structure of a unit with emphasis on changing or upgrading it, While maintenance means care and or upkeep of a unit that is planned routine or urgent that keeps the structure in proper condition or in working order.

Section 6.0 – Appeal Process

Section 6.0 – Appeal Process

6.1 Facilitated Discussion

Tenants may appeal any decision made in relation to the enforcement of the Housing Policy and/or his/her Rental Agreement. This appeal will begin with a facilitated discussion with the Housing Department. The Tenant may explain why they believe the law was misapplied and the Housing Department will make every effort to resolve their concerns within the confines of Malahat Nation law.

6.2 Council Review

In the event that the Tenant and Housing Department are unable to resolve the issue, it may be brought forward to Chief and Council. Chief and Council will review whether the decision was appropriately made following Malahat Nation law. In the event the law is silent on the issue, Chief and Council will convene for debate and a formal vote to resolve the issue in accordance with the standard of best interests of the Malahat Nation community, and the final decision will be put forth in writing within 14 days.

6.3 Mediation

If the dispute has not been resolved after Council review, the parties may attempt to resolve the dispute through mediation, in accordance with the following procedure:

1. The parties to the dispute shall jointly select a mediator;
2. If the parties are unable to agree on a mediator, the parties may request the British Columbia International Commercial Arbitration Centre to appoint a mediator; and
3. The Mediator to the dispute shall set the rules and procedures for the mediation.
4. In the event that the Mediator concludes that Malahat law is silent on the issue, they will remand it back for Chief and Council review.

6.4 Arbitration

If the parties are unable to resolve the dispute through mediation, or the parties are not able to agree on a mediation process, the parties may attempt to resolve the dispute through arbitration, in accordance with the following procedure:

1. The parties to the dispute shall jointly select an Arbitrator;
2. If the parties are unable to agree on an Arbitrator, the parties may request the British Columbia International Commercial Arbitration Centre to appoint an Arbitrator; and
3. The Arbitrator of the dispute shall set the rules and procedures for the arbitration.
4. In the event that the Arbitrator concludes that Malahat law is silent on the issue, they will remand it back for Chief and Council review.
5. Subject to 7.5, the decision of the Arbitrator shall be final and binding on the parties.

6.5 Final Appeal

Where there is an exception justified by Law, the decision of the Arbitrator may be appealed to a court of competent jurisdiction.

6.6 Costs

Subject to any ruling by an Arbitrator, all parties to a dispute shall bear their own costs in any dispute resolution process they undertake.

For greater clarity, Malahat Nation is only liable or responsible for the costs of any dispute resolution process under this part where Malahat Nation is a party and Malahat Nation is only responsible for its share of the expenses for the dispute resolution process.

APPROVAL and AMENDMENTS LOG

Approval			
Date		Approved by Administrator	
Date	Aug 11, 2014	Approved by Chief and Council	
		Band Council Resolution No.	
Amendment			
Date		Approved by Administrator	
Date	Sep 10, 2020	Approved by Chief and Council	
		Band Council Resolution No.	2020/21-010
Amendment			
Date		Approved by Administrator	
Date	Jan 28, 2021	Approved by Chief and Council	
		Band Council Resolution No.	2020/21-036