

**POKAGON BAND OF POTAWATOMI INDIANS  
ELDER YARD CARE AND MAINTENANCE  
REIMBURSEMENT PROGRAM POLICY**

**1. PURPOSE.**

- (a) In honor and recognition of the role of Elders in protecting and promoting the culture of the Band, the Elders Council was established to provide guidance and advice to the Band.
- (b) The Elders Council has determined that it is in the best interests of the Elders to establish the Program to promote the general welfare of Elders to address a recognized need in the Elder community by providing Yard Reimbursement Assistance in a manner that is not lavish or extravagant under the circumstances and not compensation for services.
- (c) The Elders Council developed the Program with the intention that the Yard Reimbursement Assistance provided to Elders under this Program is an “Indian general welfare benefit” as provided by 26 U.S.C. § 139(E)(a) and excluded from gross income and not subject to tax withholding or reporting under the Tribal General Welfare Exclusion Act, 26 U.S.C. § 139E and IRS Revenue Procedure 2014-35.
- (d) This Policy states written guidelines under which Elders may qualify for Yard Reimbursement Assistance, the purpose of which is to defray costs of and to encourage yard care, maintenance, and gardening at an Elder’s Home for the benefit of the Elder community.
- (e) This Policy shall be interpreted, and the Program administered, in a manner consistent with the above purposes.

**2. DEFINITIONS.**

- (a) “Band” means the Pokagon Band of Potawatomi Indians.
- (b) “Citizen” means a duly enrolled member of the Band.
- (c) “Elder” means a Citizen of the Band who is at least fifty-five (55) years of age.
- (d) “Elders Council” means the representative body of the Elders comprised of Elders elected by the Elders.

- (e) “Elder’s Home” means a house, apartment, or trailer that is the Elder’s true, fixed, and permanent home or apartment, occupied by the Elder on a full-time basis a majority of the calendar year and which, whenever absent, the Elder intends to return. The Elder does not have to own such house or apartment.
- (f) “Elder Household” means all persons who reside in an Elder’s Home for which Yard Reimbursement Assistance is provided through this Program.
- (g) “Elder’s Specialist” means the Elder’s Specialist for the Elders Council, an employment position within the Band’s Department of Social Services.
- (h) “Policy” means this Elder Yard Care and Maintenance Reimbursement Program Policy.
- (i) “Program” means the Elder Yard Care and Maintenance Reimbursement Program.
- (j) “Yard Reimbursement Assistance” means financial reimbursement assistance grants provided under this Program.

### **3. YARD REIMBURSEMENT ASSISTANCE SCOPE.**

Yard Reimbursement Assistance shall be limited to the following expenses incurred by an Elder for the Elder’s Home:

- (a) Expenses regarding lawncare, lawn maintenance, and/or landscaping for the Elder’s Home, including without limitation, reseeding, lawn mowing, weeding, chemical spraying, fertilizing, weed control or weed-eating, maintaining the ground cover in beds by adding additional rock, gravel, tree bark or other material used to provide ground cover in beds or in other places in the yard or area to be maintained, pruning of trees and shrubs, tree and branch removal, and gathering and/or removal of leaves.
- (b) Expenses regarding the maintenance or repair of lawncare, lawn maintenance, and/or landscaping equipment owned by the Elder for the Elder’s Home, including without limitation, lawn mowers, leaf blowers, or weed trimmers. The purchase of such equipment is not included.
- (c) Expenses regarding gardening (whether food or floral) for a garden at the Elder’s Home, including without limitation, the purchase of seeds, plants, or fertilizer, the purchase or construction of raised garden beds or hanging baskets, and the purchase of tools and equipment necessary for the Elder to engage in gardening.

**4. AMOUNT AND PAYMENT OF YARD REIMBURSEMENT ASSISTANCE.**

- (a) Subject to the provisions of this Policy, the Elders Council may provide up to \$250 of Yard Reimbursement Assistance per Elder Household during a calendar year (January 1<sup>st</sup> – December 31<sup>st</sup>), but during the first calendar year of this Program, Yard Reimbursement Assistance shall be limited to the period of May 1, 2023 – December 31, 2023.
- (b) Yard Reimbursement Assistance is subject to available funding in the Elders Council budget.
- (c) Yard Reimbursement Assistance will be awarded to eligible Elders on a first-come, first-served basis.
- (d) Yard Reimbursement Assistance will be paid directly to the Elder and not to any other person or entity.
- (e) All Yard Reimbursement Assistance payments shall be processed by and issued through the Band's Department of Finance.
- (f) The Elders Council shall maintain, for a minimum of four (4) years, all Program records of the Elders Council, including all applications.

**5. ELIGIBILITY.**

- (a) To qualify for Yard Reimbursement Assistance under the Program, a person must:
  - (i) be an Elder;
  - (ii) demonstrate a need by incurring an expense for the Elder's Home identified in Section 3 of this Policy; and
  - (iii) fully complete and return to the Elder's Specialist, an application (as described in Section 6 below) and all required documentation.
- (b) Elders shall have the burden of proving eligibility and need under the Program.
- (c) Yard Reimbursement Assistance shall only be available to Elders who meet all eligibility requirements of this Policy.
- (d) Yard Reimbursement Assistance shall be awarded in accordance with this Policy.

- (e) An Elder shall not be eligible for and shall not receive Yard Reimbursement Assistance to the extent the Elder has already received reimbursement for the same expense from any other program or policy.

**6. APPLICATION.**

- (a) Applications for Yard Reimbursement Assistance shall be made on a form provided by the Elder's Council Specialist.
- (b) The application form shall require the Elder to provide, at a minimum, the following information:
  - (i) The Elder's name, Elder's Home address, telephone number, date of birth, and Band enrollment number;
  - (ii) The name of all persons who reside at the Elder's Household;
  - (iii) A description of the need by identifying the expense(s) in Section 3 of this Policy incurred by the Elder, the amount of such expenses, the date such expenses were incurred, and the amount of Yard Reimbursement Assistance requested; and
  - (iv) A copy of invoices or receipts for such expense(s) in Section 3 of this Policy and any other documentation deemed necessary by the Elder's Specialist to demonstrate eligibility for Yard Reimbursement Assistance.
- (c) All completed applications shall be delivered to the Elder's Specialist at Elders Hall in person or by U.S. mail, email or fax.

**7. DECISION.**

- (a) The Elders Specialist shall review each application and determine whether such application complies with the requirements of this Policy and is otherwise complete.
- (b) If the Elder's Specialist determines that an application does not comply with the requirements of this Policy or is not otherwise complete, then the Elder's Specialist shall inform the applicant, in writing, electronically, or orally, of such determination, including the reasons for such determination. Any such determination shall be final and not subject to appeal.

- (c) If the Elder’s Specialist determines that an application is complete and does comply with the requirements of the Policy, the Elder’s Specialist shall review such application and determine whether an Elder is eligible for Yard Reimbursement Assistance under this Policy and shall also determine whether Yard Reimbursement Assistance funding is available.
- (d) If the Elder’s Specialist determines either that the Elder is not eligible for Yard Reimbursement Assistance under this Policy or that Yard Reimbursement Assistance funding is not available, then the Elder’s Specialist shall:
  - (i) deny Yard Reimbursement Assistance; and
  - (ii) notify or cause to be notified, the Elder of the determination in person or by U.S. mail, email or fax. Such notice shall also include:
    - (A) the specific reason for the denial of Yard Reimbursement Assistance;
    - (B) A statement informing the Elder of the right to appeal the decision to deny Yard Reimbursement Assistance, unless the denial was due to a lack of available funding (there is no right to appeal);
    - (C) A description of the appeal procedure (or attachment of Section 8 of this Policy); and
    - (D) A statement informing the Elder of the ability to reapply for Yard Reimbursement Assistance if the Elder’s circumstances change.
- (e) If the Elder’s Specialist determines that an Elder is eligible for Yard Reimbursement Assistance under this Policy and that Yard Reimbursement Assistance funding is available, then the Elders Specialist shall approve such application for Yard Reimbursement Assistance. The Elders Specialist shall coordinate with the Band’s Department of Finance for payment of all eligible, approved Yard Reimbursement Assistance.

**8. APPEAL.**

- (a) Any Elder who is denied Yard Reimbursement Assistance may appeal such decision through a written request to meet with the Elders Council, but there shall be no right to appeal if the denial was due to a lack of adequate funding.

- (b) The written request shall be submitted to the Elder's Specialist on behalf of the Elders Council at Elders Hall in person, or by U.S. mail, email or fax.
- (c) The written request must be received by the Elder's Specialist no later than fourteen (14) calendar days after the date of the notice of denial and, if a written request is not received within such time, the Elder shall be deemed to have waived the right to appeal the decision to deny Yard Reimbursement Assistance.
- (d) The written request shall be signed and dated by the Elder and include a statement explaining why the decision to deny Yard Reimbursement Assistance was incorrect.
- (e) A copy of the notice of denial of Yard Reimbursement Assistance and all documents that the Elder would like for the Elders Council to consider at the meeting shall be included with the written request.
- (f) Upon timely receipt of a written request, the Elders Council shall schedule a meeting with the Elder. The Elders Council shall notify the Elder of the location, date and time of the meeting in person, or by U.S. mail, email or fax.
- (g) The Elder must attend the meeting in person or, with prior notice to the Elders Council, participate by telephone.
- (h) If the Elder fails to attend the meeting in person or, with prior notice to the Elders Council, to participate by telephone, the Elder shall be deemed to have waived the right to appeal the decision to deny Yard Reimbursement Assistance.
- (i) At the meeting, the Elder shall have an opportunity to explain (without the assistance of legal counsel) why the decision to deny Yard Reimbursement Assistance was incorrect. Additionally, the Elder's Specialist shall have an opportunity to explain why the decision to deny Yard Reimbursement Assistance was correct. Both the Elder's Specialist and the Elder may call witnesses to present relevant testimony.
- (j) At the meeting, the Elders Council shall decide, by motion or resolution, whether to uphold or reverse the decision to deny Yard Reimbursement Assistance.
- (k) All decisions of the Elders Council under Section 8 of this Policy shall be final and not subject to review or appeal, including under the Band's Grievance Policy.

**9. GARNISHMENT, INALIENABILITY, AND NO VESTED RIGHTS.**

- (a) Yard Reimbursement Assistance is not subject to garnishment to satisfy an outstanding judgment in favor of the any person or entity, but the Yard Reimbursement Assistance is subject to garnishment under a notice of levy if required under applicable federal law, and the notice of levy is recognized by the Band's Tribal Court not later than seven (7) business days prior to the Band's payment of Yard Reimbursement Assistance.
- (b) Except as provided in Subsection 9(a) of this Policy, Yard Reimbursement Assistance shall not be subject to alienation, sale, transfer, assignment, pledge, encumbrance, levy, attachment or garnishment by creditors, or in any way taken or reached by any legal or equitable process in satisfaction of debt or liability of an Elder prior to its actual receipt by the Elder. Any actual or attempted alienation, sale, transfer, assignment, pledge, encumbrance, levy, attachment or garnishment of the Yard Reimbursement Assistance prior to payment to an Elder shall be void.
- (c) Nothing contained in this Policy shall be construed to vest in any person any right or interest in any Band revenues or assets. All revenues shall be held by the Band until distributed pursuant to Band law and this Policy. No Elder shall have an interest in or right to any Yard Reimbursement Assistance until it is actually paid by the Band pursuant to this Policy. Yard Reimbursement Assistance shall remain assets of the Band until actually distributed by the Band.

10. **GENERAL.**

- (a) This Policy shall be effective upon approval by the Elders Council pursuant to Subsection 5(E) of the Elders Council Code.
- (b) The Elders Council shall ensure that copies of this Policy are available upon request.
- (c) The Elders Council reserves the right to amend or repeal this Policy, including to end the Program at any time in its sole discretion, subject to applicable law.
- (d) This Program is structured with the intent that the Yard Reimbursement Assistance be non-taxable to Elders under the Tribal General Welfare Exclusion Act and IRS Revenue Procedure 2014-35 and not subject to information reporting and withholding under federal tax laws and regulations. Nonetheless, if Internal Revenue Service deems the Yard Reimbursement Assistance, or any portion of the Yard Reimbursement Assistance, to be taxable, then the Elder (and not the Band) shall be solely responsible for any taxes, interest and penalties owed from receipt of the Yard Reimbursement Assistance. Elders are encouraged to contact a

tax advisor with any tax questions relating to the Yard Reimbursement Assistance.

- (e) The Band shall not be responsible for any conditions, warranty, performance, or other issues, including any malfunctions, losses, damages (including personal injury, death, or damage to any property), etc., arising from or in any way related to any Yard Reimbursement Assistance. To the fullest extent permitted by applicable law, by participating in the Program, an Elder shall be deemed to have forever released, waived, and agreed not to sue the Band and its officials and employees from all claims, damages, liabilities, and expenses, which arise, directly or indirectly, in connection with participating in the Program.
- (f) If any provision of any application required under this Policy conflicts with this Policy, the Policy shall control.
- (g) The Band has not waived its sovereign immunity. Nothing in this Program shall waive the sovereign immunity of the Band or any of its officials or employees.

---

#### **HISTORY**

Elder Yard Reimbursement Assistance Program Policy, approved June 7, 2023, by Elders Council Resolution No. 23-06-07-01, provided that as stated in the approving resolution, such approval was effective as of the expiration of the Posting Period.