



AGUA CALIENTE BAND OF CAHUILLA INDIANS  
TRIBAL COUNCIL

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**ORDINANCE NO. 19-2024**

**AN ORDINANCE OF THE AGUA CALIENTE BAND OF  
CAHUILLA INDIANS ADDING A NEW CHAPTER 10.20  
ADOPTIONS TO THE AGUA CALIENTE TRIBAL CODE**

**WHEREAS**, the Agua Caliente Band of Cahuilla Indians (the “**Tribe**”) is a federally recognized Indian tribe governing itself according to the Constitution and By-Laws of the Agua Caliente Band of Cahuilla Indians adopted by the Tribe on June 28, 1955 (the “**Constitution**”); and

**WHEREAS**, the Tribe, acting by and through its duly elected Tribal Council and pursuant to Articles II and IV (a) of the Constitution, exercises inherent sovereign authority and jurisdiction over the territory within the exterior boundaries of the Agua Caliente Indian Reservation (the “**Reservation**”) and over other lands which may be added to the Reservation; and

**WHEREAS**, pursuant to Article V (a) and (b) of the Constitution, the Tribal Council, among other things, is empowered to administer the affairs and manage the business of the Band; to regulate the procedures of the Tribal Council and of other Tribal agencies; to enact ordinances and resolutions pertaining to Tribal affairs and to take all proper means to enforce the same; and

**WHEREAS**, the Tribal Council desires to add the chapter noted above to the Agua Caliente Tribal Code.

**NOW, THEREFORE**, the Tribal Council of the Agua Caliente Band of Cahuilla Indians does hereby ordain as follows:

**SECTION 1.** All the recitals set forth above are true and correct, and the Tribal Council so finds and determines.

**SECTION 2.** New chapter 10.20 is hereby added to the Agua Caliente Tribal Code to read as follows:

**CHAPTER 10.20. ADOPTIONS**

**Sec. 10.20.010. Adoption policy.**

It is the policy of the Tribe that its children should be adopted only as a matter of last resort, and alternative long-term placements such as guardianship and long-term foster placement should first



be considered which maintain the connection between the child and the parent, siblings, and extended family. Tribal Customary Adoption under Chapter 10.26 should also be considered as an alternative to conventional adoption since termination of parental rights is not required to effect such an adoption.

**Sec. 10.20.020. Purpose.**

(a) The purpose of an adoption is to provide a permanency option whenever reunification efforts have failed, or reunification is not appropriate or cannot be safely achieved. Adoption establishes a formal and legal family relationship between two or more people which shall exist as if the parties were born into the adoptive relationship by blood. Adoptions establish permanency and stability for children subject to the Tribal Court's jurisdiction in accordance with their best interests and determined on a case-by-case basis. The purpose of adoptions shall also be to give the adoptive child a permanent home and family who will assume all legal duties, rights, relationship, and decisions involving the child.

(b) Tribal Customary Adoption may be considered as an alternative to conventional adoption pursuant to Chapter 10.26 of this Code.

**Sec. 10.20.030. Jurisdiction over adoptions.**

(a) The Tribal Court has jurisdiction regarding the adoption of any person who resides or is domiciled within the jurisdiction of the Tribal Court, is unmarried, less than eighteen years of age, and is:

- (1) A member of the Tribe; or
- (2) Eligible for membership in the Tribe, or
- (3) The child of two adults who submit to the jurisdiction of the Tribal Court.

**Sec. 10.20.040. Eligibility for adoption.**

- (a) Every child who is within the jurisdiction of the Tribal Court pursuant to Section 10.20.030 may be adopted subject to the terms and conditions of this Chapter.
- (b) Who may file adoption petition.

(1) Any adult may file a petition to adopt an Indian child. The Tribal Court may also hear petitions transferred from state courts pursuant to 25 U.S.C. Subsection 1911(b) and this Code.



(2) In the case of married persons maintaining a home together, the petition shall be the joint petition of spouses except that if one of the spouses is the biological parent of the child to be adopted, the biological parent shall not be required to join in the petition. In any case where all persons petitioning to adopt a child are not Indians, the petition shall not be granted unless:

- a. No Tribal Member is willing to adopt the child; and
- b. No Indian is willing to adopt the child.

(b) Enrollment Eligibility. Pursuant to Section 10.04.050, no new Members may be adopted by the Tribe as Members. However, individual Members may adopt children and apply for the enrollment of those adopted children. The fact of such adoption by a Member will not prevent the enrollment of a person who is otherwise eligible for enrollment.

#### **Sec. 10.20.050. Conditions to adoption.**

In any adoption proceeding, the welfare of the child shall be primary, and the proposed adoption must be in the best interests of the child.

#### **Sec. 10.20.060. Order of preference for adoption.**

(a) Preference in adoption shall be given in the following order unless the Tribal Court determines that the child's best interests require deviation from the preferences:

- (1) A member of the child's immediate family.
- (2) A member of the child's extended family.
- (3) A person designated by the child's parent or approved by the Tribal Family Services Department.
- (4) A member of the Tribe.
- (5) A member of an Indian tribe to which the child has hereditary connections.
- (6) A member of any Indian tribe.
- (7) An Indian foster family licensed and approved pursuant to Chapter 10.22.
- (8) A foster family licensed and approved pursuant to Chapter 10.22.
- (9) An appropriate non-Indian person.



**Sec. 10.20.070. When consent to adoption is required.**

(a) Written consent to adoption is required of:

(1) Each biological, adoptive, and acknowledged parent whose parental rights have not been involuntarily terminated, who has not voluntarily terminated his parental rights or has not been declared incompetent. A minor child parent may consent to an adoption provided the parents of the minor parent concur. The Tribal Court may waive consent of a minor's parents if it finds that their withholding of such consent is unreasonable.

(2) The Indian custodian or guardian, if empowered to consent.

(3) The child, if more than twelve (12) years of age, provided that the Tribal Court may waive this requirement, if it deems it necessary for the best interests of the child.

(4) The child, if emancipated from his parents, as evidenced by an order from a court of competent jurisdiction.

(5) If both parents are deceased, or if their parental rights have been terminated by judicial order, then the Indian custodian, guardian, or person having physical custody of said child for the preceding six (6) month period and the authority to consent to the adoption of the child.

(b) The Tribal Court may accept a voluntary consent to adoption if person whose consent is required personally appears at the hearing and gives their consent. An interpreter shall be provided if required by the Tribal Court. The Tribal Court shall have authority to inquire as to the circumstances behind the signing of a consent under this Chapter. The Tribal Court may accept the consent only after the Tribal Court has explained the effect of adoption, has questioned the consenting person, and is satisfied that the consent is informed and voluntary.

(c) Consent must be in writing and signed by the person whose consent is required in the presence of and with the approval of the Tribal Court. Consent shall not be accepted or acknowledged by the Tribal Court prior to ten (10) days after birth of the child.

(d) The Tribal Court may, upon request of the consenting person, unless good cause to the contrary is shown, admit testimony on the record by telephone or live audiovisual means.

(e) Consent shall include the date and time and shall positively identify the party giving the consent and the child to whose adoption the consent is given.

(f) The consent shall designate either of the following:



- (1) Any other person authorized by the person giving the consent to place the child for adoption.
- (2) Any particular person or persons authorized to adopt the child by the person giving the consent.

**Sec. 10.20.080. Withdrawal of consent.**

- (a) Any consent given for the adoption of, or termination of parental rights to a child may be withdrawn at any time prior to the entry of a final order of adoption or termination as the case may be and the child shall be returned to the parent if so ordered by the Tribal Court.
- (b) Written consent cannot be withdrawn after the entry of a final order of adoption. Consent may be withdrawn prior to the final order of adoption upon showing a preponderance of evidence at a hearing before the Tribal Court that consent was obtained by fraud, duress, or coercion, or the best interests of the child require the consent to adoption be voided.
- (c) The Tribal Court shall not grant permission to withdraw consent unless it finds that the best interests of the child will be served by such withdrawal. The entry of an order of adoption renders any consent irrevocable.

**Sec. 10.20.090. When consent is not required.**

- (a) Written consent to an adoption is not required if:
  - (1) The parent's rights have been involuntarily terminated.
  - (2) The parent has voluntarily terminated or relinquished his parental rights.
  - (3) The parent has been declared incompetent.
  - (4) The parent has abandoned his child.
  - (5) The death of both parents attested by a certified copy of a Certificate of Death.
- (b) If the parents be deceased, adoption of a child may be ordered without the consent required by Section 10.20.070 of this Chapter only if the Indian custodian or guardian having custody have:
  - (1) Had their parental or custodial rights terminated by an order of a court of competent jurisdiction, or



(2) Been adjudicated incompetent by reason of mental disease, defect, or injury, or by abuse of alcohol or drugs, and it appears by a preponderance of the evidence that such person will be unable to provide the necessary care and control of said child for a significant period of time prior to the child reaching majority, or

(3) For a period of twelve (12) months immediately preceding the filing of the petition for adoption, willfully failed, refused, or neglected to provide and contribute to the support of the child either:

a. In substantial compliance with any order of a court of competent jurisdiction ordering certain support to be contributed, or

b. If no Tribal Court order has been ordering certain support, then within their available means through contribution of financial support, physical necessities such as food, clothing, and shelter contributions, or by performing labor or other services for and at the request of the person or agency having custody.

(4) Been finally adjudicated guilty of a felony and sentenced to death or to a term of imprisonment which is likely to prevent release of the parent for a period such that the parent will be unable to provide the necessary care and control of said child for a significant period of time prior to the child reaching majority.

(5) In such cases, it shall not be necessary to obtain the consent of such parent, or to terminate the parental rights of such parent prior to adoption of the child.

#### **Sec. 10.20.100. Voluntary relinquishment.**

(a) Any parent, Indian custodian, or other guardian of a child may relinquish, subject to the terms of Section 10.20.070, any rights they may have to the care, custody, and control of a child. A relinquishment may be made by filing a petition in the Tribal Court with notice to the Tribal Family Services Department, Agua Caliente Legal Department or designee, Indian custodian, guardian, and the parent(s) who is not a petitioner. The Indian custodian may intervene in said action. The petition may seek to relinquish parental rights, in which case the Tribal Court shall assume jurisdiction over the child.

(b) A relinquishment shall be valid only upon approval and order of the Tribal Court.

#### **Sec. 10.20.110. Procedure for signing the consent to adopt.**

(a) Written consent, where required by this Chapter, shall be attached to the petition for adoption. Written consent to an adoption shall be signed and acknowledged before a Notary Public. Consent shall not be accepted or acknowledged by the Tribal Court unless signed and



acknowledged at least ten (10) days after birth of the child. An interpreter shall be provided if required by the Tribal Court. The Tribal Court shall have authority to inquire as to the circumstances behind the signing of a consent under this Chapter.

(b) Consent shall not be accepted or acknowledged by the Tribal Court prior to ten (10) days after birth of a child.

#### **Sec. 10.20.120. Consent of child.**

Whenever a child is of a sufficient maturity and understanding, the Tribal Court may, and in every case of a child over twelve (12) years of age the Tribal Court shall, require the consent of the child to adoption, expressed in such form as the Tribal Court shall direct, prior to the entry of an order of adoption provided that the Tribal Court may waive this requirement, if it deems it necessary for the best interests of the child. Whenever possible, the Tribal Court should interview such a child in private concerning the adoption prior to approving the child's consent.

#### **Sec. 10.20.130. Petition for adoption.**

(a) To initiate an adoption, a petition for adoption shall be filed with the Tribal Court. In circumstances in which parental rights have been involuntarily terminated and the child placed is placed within the care and custody of the Tribal Family Services Department, the Department shall file the adoption petition. In all other circumstances, a petition for adoption may be filed by the prospective adoptive parent(s).

(b) The petition for adoption shall be verified under oath by the prospective adoptive parent(s) or Tribal Family Services Department Advocate and Caseworker (Caseworker), as the case may be, and shall contain:

(1) The full names, ages, and places of residence of the prospective adoptive parents, and, if married, the place and date of their marriage.

(2) The prospective adoptive parents' relationship with the child, if any, and their Tribal affiliation by blood and membership.

(3) When and from whom the prospective adoptive parents acquired or intend to acquire physical custody of the child.

(4) The names of the child's biological, adoptive and/or acknowledged parents and their Tribal affiliation by blood and membership, including Tribal roll or membership numbers, if known, as well as their current address(es) and phone number(s).



(5) The names of the child's Indian custodian(s) or guardian(s) and their current address(es) and phone number(s).

(6) The date and place of birth of the child including the jurisdiction issuing the birth certificate for said child, the child's sex, any Tribal affiliation by blood and membership, including Tribal roll or membership number, if known.

(7) The name used for the child in the proceeding, and if a change in name is desired, the proposed name of the adoptee after the entry of the final order of adoption.

(8) A statement as to how the child has become, or will become, eligible for adoption. If rights have been terminated, a copy of the Tribal Court order terminating the rights must be attached to the petition. If a child is eligible for adoption because both parents are deceased, a certified copy of the death certificates shall be attached to the petition.

(9) That it is the desire of the prospective adoptive parents that the relationship of parent and child be established between them and the child.

(10) A statement as to the basis for adoption supported by a home study, medical, psychiatric and/or psychological report, Tribal Family Services Caseworker, and/or family member.

(11) A full description and statement of the value of all property owned by or possessed by the child.

(12) A report of all transfers of anything of value made or agreed to be made between the biological parent and prospective adoptive parent including a copy of any written agreement between the biological parent and prospective adoptive parent.

(13) The facts, if any, which excuse the consent of the parent(s) to the adoption.

(14) Any required consents to the adoption must be included and filed with the Tribal Court prior to entry of an order of adoption.

(15) A description of all previous Tribal Court proceedings involving the care or custody of the child to be adopted and the results of those proceedings, along with copies of the pre-adoption assessment, counseling affidavit, and voluntary relinquishment, if applicable, and all Tribal Court orders including the final order terminating the parental rights of the biological parent.

(16) The facts which bring the child within the jurisdiction of the Court and a statement that no similar action is pending in a tribal or state court having jurisdiction over the child.





- (17) A statement as to why a final order for adoption is in the best interests of the child.
- (c) Where there is more than one proposed adoptee, and these proposed adoptees are siblings, only one petition shall be required for the adoption of all or any combination of the siblings, provided that each sibling proposed to be adopted is named in the petition.
- (d) The petition shall be filed with the Clerk of the Tribal Court, with copies served, by the petitioner, on the Tribal Family Services Department, Agua Caliente Legal Department, parents, Indian custodian, or guardian, if any.
- (e) The Tribal Court may appoint a guardian ad litem to assist the Court in determining if an adoption is in the best interests of the child.
- (f) Service of petition; summons and notice; parties.
- (1) Upon filing of the petition, the petitioner shall initiate service of notice of the filing, no later than five days upon the filing of the petition. The notice shall be directed to the following persons or agency, not otherwise a party, who shall be named as respondents:
- a. Tribal Family Services Department Caseworker.
  - b. Any biological, adoptive, or acknowledged parent, Indian custodian, guardian, or child consenting to the adoption must personally appear at the hearing.
  - c. The prospective adoptive parent or parents shall personally appear at the hearing.
  - d. All other persons whose consent is necessary shall be duly notified and shall personally appear if the Tribal Court determines the validity of the consent is at issue.
  - e. A man who to the actual knowledge of the petitioner claims to be or is named as the biological or possible biological father of the child, and any biological or possible biological fathers who are unknown or whose whereabouts are unknown, except that notice need not be served upon a man who has executed a consent, a relinquishment, or a notarized statement denying paternity or disclaiming any interest in the child, a man whose parental rights have been legally terminated or who has been judicially determined not to be the child's parent, a man whose consent to the adoption is not required under this Chapter or, provided the petition is filed within three (3) months of the birth of the minor a man who has not legitimized the child or who has abandoned the child as defined in this Code.



- f. A person that has legal custody of the child or visitation rights pursuant to a Tribal Court order.
- g. Anyone who is currently taking care of the child.
- h. Tribal Court Appointed Special Advocate, if any.
- i. Any other party the Court may deem necessary.

(2) The notice shall advise the respondents that a written answer must be filed with the Tribal Court within thirty (30) days after service of the summons and petition.

(3) The summons shall be issued by the Tribal Court and shall include:

- a. The name of the child.
- b. Notice that a written answer to the petition must be filed with the Tribal Court Clerk within thirty (30) days after service of the summons and a copy of the petition, or if not, the petition may be granted, and a final order of adoption may be issued by the Tribal Court.
- c. Notice of the date, time, and place of the hearing if no answer is filed within thirty (30) days from the date of service;
- d. A copy of the Petition for Adoption.
- e. Notice of the purpose of the hearing and notice that the biological parents may attend the hearing if those parents were required service.
- f. If the child is the subject of existing child protection proceedings under Chapter 10.14 and the petitioner has requested to join the proceedings, the petitioner may, in the discretion of the Tribal Court, be joined to those proceedings if the Tribal Court determines that joinder is in the child's best interests.

**Sec. 10.20.140. Pre-adoption home study and investigative report.**

(a) The Tribal Family Services Advocate and Caseworker shall prepare and present to the Tribal Court a pre-adoption report within sixty (60) days of the filing of a petition for adoption or a supplemental report as ordered by the Tribal Court as to the suitability of the child for adoption, as well as to the financial, moral, physical fitness, general background of the adoptive home, and adoptive parent or parents as well to any biological, adoptive, or foster child already in the home that may pose a risk to the adoptive child. The Caseworker shall also conduct a state and federal



background check of the prospective adoptive parents and all adults in the home. The proposed adoptive parents and each member of the proposed adoptive parents' household, age eighteen (18) or over, must submit to a drug test.

(1) The Caseworker shall also conduct an in-state check of the Child Abuse Central Index as required by California Penal Code 11170 and, if necessary, a check of any other state's child abuse and neglect registry shall be conducted of the prospective adoptive parents and all adults in the home.

(2) A home study shall be conducted as part of this procedure and shall be filed with the Tribal Court as part of the adoption petition when the Tribal Family Services Department files the petition for adoption. If the proposed adoptive parents file the petition, the Tribal Family Services Department shall file the home study with the Tribal Court no later than ten (10) days before the hearing. The home study shall contain other pertinent information designed to assist the Tribal Court in determining the best placement for the child. The home study will also address the issue of whether the home most closely resembles that of the child's culture, identity, and where applicable, his tribal affiliation. Adoptions that will result in the substantial alienation of an Indian child from his Tribe, culture, or heritage shall not be favored. The Caseworker shall contact the appropriate agencies and individuals who have relevant knowledge, and such contacts and relevant information shall be included in the report. The Caseworker shall make written recommendations on the proposed adoption and shall include an opinion as to whether the adoption is in the best interests of the child.

(b) Other Agencies; Individuals. The Tribal Court may order other agencies or individuals to prepare and file written reports with the Tribal Court to aid in the Tribal Court's determination on the suitability of the proposed adoption.

(c) Copies. Copies of all reports shall be served on petitioner and all other parties at least ten (10) days prior to the hearing on the petition.

(e) Determination on Petition. No determination can be made on a petition for adoption until the home study and the investigative report have been completed and submitted to and considered by the Tribal Court. The home study shall be submitted to the Tribal Court no later than ten (10) days before the hearing. The home study and investigative report may be consolidated into one document. The Tribal Court may order additional home studies or reports, as it deems necessary.

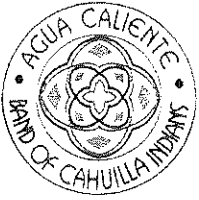
#### **Sec. 10.20.150. Hearing on petition for adoption.**

(a) Time Limit. A hearing shall be held within ninety (90) days of receipt of an adoption petition to determine if it is in the child's best interest to be placed with the prospective adoptive parents.

(b) Attendance at Hearing.



- (1) The prospective adoptive parent or parents shall personally appear at the hearing.
  - (2) Any biological, adoptive, or acknowledged parent consenting to the adoption must personally appear at the hearing.
  - (3) All other persons whose consent is necessary shall be duly notified and shall personally appear if the Tribal Court determines the validity of the consent is at issue.
  - (4) Tribal Family Services Caseworker, if any.
  - (5) Tribal Court Appointed Special Advocate, if any.
- (c) Conduct of the Hearing.
- (1) The Tribal Court shall inform the parties of their rights under this Chapter and of the nature and consequences of the proceedings.
  - (2) The Tribal Court shall examine all persons appearing as to the suitability of the child for adoption, the validity of consent to adoption if required, the financial, moral, and physical fitness, and responsibility of the prospective adoptive parents, and whether the best interests of the child will be promoted by the adoption.
  - (3) The Tribal Court shall also hear from biological extended family members to decide whether the child's legal relationship to the extended family should be terminated. The prospective adoptive parent or parents and adoptive child shall appear personally at the hearing. All other persons whose consent is necessary to the adoption and who have not filed their written consents shall be duly notified and may appear or be represented by an attorney admitted to practice before the Tribal Court, or by an unpaid personal representative at their request with the approval of the Tribal Court.
  - (4) The Tribal Court shall examine all persons appearing separately, and if satisfied as to the suitability of the child for adoption, the financial ability, and moral and physical fitness and responsibility of the adoptive parents, and that the best interests of the child will be promoted by the adoption, may enter a final order of adoption, or may place the child in the legal custody of the petitioners for a period of not more than six (6) months prior to entering a final order of adoption.
  - (5) In determining the best interests of the child, the Tribal Court shall examine:
    - a. The validity of the written consent.
    - b. The termination of parental rights order.



- c. The length of time of the child's wardship by the Tribal Court.
- d. Special conditions of the child.
- e. Communication and/or relationship between the child and birth parent.
- f. Child's consent to adoption if the child is more than twelve (12) years of age.
- g. Home study and pre-adoption investigative reports
- h. Order of preference placement.
- i. Any other considerations in keeping with the safety and well-being of the child.

(6) Evidence.

a. **Formal Rules Do Not Apply.** The formal rules of evidence shall not apply at these proceedings. All relevant and material evidence which is reliable and trustworthy may be admitted at the trial and may be relied upon by the Tribal Court to the extent of its probative value.

b. **Cross-examination.** The parties shall be afforded an opportunity to examine and controvert written reports received by the Tribal Court and shall be allowed to cross-examine individuals who made the reports when those individuals are reasonably available.

c. **Technological Devices.** The Tribal Court, in its discretion, may rely upon technological devices that further the likelihood of appearance and participation of the parties and other persons determined necessary or useful to the proceedings by the Tribal Court.

(7) **Burden of Proof.** The burden of proving the allegations in the petition shall be upon the petitioner and the standard of proof shall be by a preponderance of the evidence.

(8) The Tribal Court may continue the hearing, upon a showing of good cause, at the request of any party to the proceeding and enter such temporary orders, if any, as may be deemed just and reasonable to carry out the purposes of this Chapter.

**Sec. 10.20.160. Findings and order on petition for adoption.**



(a) Granting the Petition. If the Tribal Court is satisfied that it is in the best interests of the child to grant the petition, the Tribal Court may enter a final order of adoption as follows:

(1) In the case of a child who has lived with the adoptive parent for more than six (6) months before the adoption petition has been filed, the final order of adoption shall be entered immediately.

(2) In all other cases, the Tribal Court shall order that the child be placed in the legal custody of the adoptive parent for at least six (6) months; at that time, the Tribal Court shall request a supplemental report and, if the Tribal Court determines that the best interests of the child are served, shall enter the final order of adoption immediately.

(b) Contents of Adoption Order. The final order of adoption shall include findings of fact and conclusions of law necessary to establish that the child is eligible and suitable for adoption, and that:

(1) The adoptive home and parents are able to provide for the child's physical, mental, emotional, and financial needs, as shown by the pre-adoptive investigation report and the findings of the Tribal Court upon the evidence produced at the hearings.

(2) Biological parents have consented to the adoption or that consent is not required under 10.20.090.

(3) All parties who must consent to the adoption have consented.

(4) All consents are voluntary and informed.

(5) The adoption is in the child's best interest.

(6) The Tribe does not oppose the adoption.

(7) If the child has already been placed in the adoptive home, that the child is doing well in the home.

(8) A home study and investigative report were completed by Tribal Family Services and the results support the adoption.

(9) A statement that the child has been adopted, pursuant to this Chapter's provisions regarding adoption, by the petitioner and that the parent-child bond is hereby established and that all of the rights and responsibilities of that relationship shall exist upon the entry of such order.

(10) A notice regarding the new name of the child, if any.



(c) Denying the Petition. If the Tribal Court is not satisfied that the adoption will be in the best interests of the child, the petition shall be denied and the child's Indian custodian or guardian instructed to arrange suitable care for the child, and the Tribal Court may request the Tribal Family Services Department or other social service agencies to provide services to assist in the placement and the care of the child, or, in case of need, refer the matter to the Tribal Family Services Department and the Agua Caliente Legal Department or designee for the purpose of determining whether a child in need of care petition should be filed.

(d) If the Tribal Court does not enter a final order of adoption at the time of the hearing for adoption but places the child in the legal custody of the petitioners, within six months (6) after the child has been in the custody of the petitioner, the Tribal Court shall request a supplementary written report as to the welfare of the child, the current situation, and conditions of the adoptive home and the adoptive parents.

**Sec. 10.20.180. Conditional, defeasible, or postponed adoption.**

(a) An adoption may be ordered by the Tribal Court upon conditions that are reasonable and calculated to preserve the child's Tribal relationship. Such orders may include visitation rights, retained supervision, or postponing final adoption orders pending proof of good faith in compliance with conditions established by the Tribal Court.

(b) If it appears to be in the child's best interests, the Tribal Court may postpone confirmation of the adoption for a period up to two (2) years to determine whether reasonable and necessary conditions for the welfare of the child are being met. If such conditions are met, the Tribal Court may then confirm the adoption without further hearing. If such conditions have not been met, the Tribal Court may issue an order to show cause why the adoption should not be vacated and may extend the period of supervision. Unless previously vacated by order of the Tribal Court, an adoption shall be confirmed by the death of either biological parent or adoptive parent, or by the death or attainment of eighteen (18) years of age of the adopted child.

**Sec. 10.20.190. Effect of final order of statutory adoption.**

(a) After a final order of adoption pursuant to this Chapter is entered, the relationship of parent and child, and all the rights, duties, and other legal consequences of the biological relation of a child and parent shall thereafter exist between such adopted child, the adopting parents, and the kindred of the adopting parents and all of the rights and responsibilities of that relationship shall exist upon the entry of such a final order. The adopted child shall inherit real and personal property from the adopting family and the adopting family shall inherit from the child in accordance with law as if such child were the biological child of the adopting parents unless otherwise provided in Chapter 10.16.

(b) After a final order of adoption pursuant to this Chapter is entered, the biological parents of the adopted child, unless they are the adoptive parents or the spouse of an adoptive parent, shall



be relieved of and terminated from all parental rights and responsibilities for said child, including the right to inherit from the child, provided, that the child shall remain eligible to inherit from said biological parents, and retain all rights to membership in a tribe by virtue of his birth to said biological parents.

(c) A final order of adoption pursuant to this Chapter shall not disentitle a child to any benefit due the child from any third person, agencies, county, state, or the United States, nor shall any action under this Code be deemed to affect any rights and benefits that the child derives from the child's descent from a member of a federally recognized Indian tribe unless otherwise inconsistent with Tribal law.

**Sec. 10.20.200. Adoptive birth certificate; release of original certificate.**

Within five (5) days of the final order of adoption entered by the Tribal Court, the California Division of Vital Statistics of the State Board of Health or other appropriate agency of the state which issued the original certificate of birth shall be notified by the Clerk of Tribal Court that the adoption has taken place, giving the full name, sex, birthday, and names of biological parents, in order that a new record of birth in the new name and with the name or names of the adopting parents to be recorded; said agency shall be provided with a certified copy of the final order of adoption. A certified copy of the final order of adoption and the original and new birth certificates shall also be provided to the Enrollment Committee under seal.

**Sec. 10.20.210. Name and legal status of adopted child.**

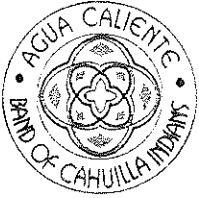
A child adopted by order of the Tribal Court shall assume the surname of the persons by whom they are adopted unless the Tribal Court orders otherwise or the prospective adoptive parents request otherwise. Except as otherwise provided in Tribal law, they shall be entitled to the same rights as biological children of the persons adopting them. However, adoption does not confer tribal membership status on adopted children who would not be otherwise eligible. Adoption does not terminate the rights of biological extended family members of the child, as a group, except by order of the Tribal Court.

**Sec. 10.20.220. Records and hearings confidential.**

Unless the Tribal Court otherwise orders:

(a) All hearings held in proceedings under this Chapter shall be confidential and shall be held in closed Tribal Court without admittance of any person other than the interested parties, including the Indian custodian, representatives of the Tribal Family Services Department when deemed necessary by the Tribal Court, counsel for the parties, and persons whose presence is requested by the parties in private before the Tribal Court after the exclusion of all other persons.





(b) All papers, records, and files pertaining to the adoption shall be kept as a permanent record of the Tribal Court and withheld from inspection. No person shall have access to such records except:

- (1) Upon order of the Tribal Court for good cause shown.
- (2) Upon the adopted person reaching the age of eighteen, the adopted person may review the records unless the biological parents have, by affidavit, requested anonymity, in which case, their names and identifying characteristics, not including tribal membership, and degree of blood, shall be deleted prior to allowing the adopted person access to the records.
- (3) Consistent with 25 CFR 23.138, upon application by an Indian who has reached age 18 who was the subject of an adoptive placement, the Court that entered the final decree of adoption must inform such individual of the Tribal affiliations, if any, of the individual's biological parents and provide such other information necessary to protect any rights, which may include Tribal membership, resulting from the individual's Tribal relationship.
- (4) The Indian custodian and biological grandparents, or immediate or extended family members as determined by the Tribal Court in the best interests of the child, may have access to the records unless the biological parents have, by affidavit, requested anonymity, in which case, the names and identifying characteristics shall be deleted prior to allowing them access to the records as in the preceding paragraph. If the adopting parents have, by affidavit, requested anonymity, the Indian custodian and biological grandparents may have access to the records only by order of the Tribal Court for good cause shown, and then only if the Tribal Court deems such request to be in the best interests of the child.
- (5) For the purposes of obtaining the enrollment of the child with another Indian tribe, the Tribal Court may upon request of an enrollment officer of that tribe, certify to that officer pertinent facts to enable that officer to determine the eligibility of the child for membership in that tribe subject to the written guarantee, with an undertaking if deemed necessary by the Tribal Court, that such facts will remain confidential and divulged only to those persons who must know the facts to obtain the enrollment of the child. In the alternative, and in cases where the biological or adoptive parents have, by affidavit, requested anonymity, the Tribal Court may certify a copy of the record of the case to a judge of the Tribal Court of the other tribe for an in-camera review only, or allow such judge to review the record in the Tribal Court, in camera, for the purpose of said judge certifying to his tribe that the child is eligible for membership in that tribe.

#### **Sec. 10.20.230. Certificates of adoption.**

(a) For each adoption or annulment of adoption, the Tribal Court shall prepare, within thirty (30) days after the order becomes final, a certificate of such order on a form furnished by the Registrar of Vital Statistics of the State or other jurisdiction having issued the birth certificate of



said child and shall attach thereto certified copies of the petition and order of adoption, and any other information required by law by the Registrar.

(b) Such form and certified copies, along with any other pertinent information requested by the jurisdiction having issued the birth certificate shall be forwarded forthwith to the Registrar of Vital Statistics of the jurisdiction.

**Sec. 10.20.240. Finality.**

All judgments of the Tribal Court, including an order issuing an adoption, shall be final, and shall be in writing, signed by the Tribal Court judge.

**SECTION 3.** The Tribal Council hereby finds that the adoption of this Ordinance does not constitute a “Major Tribal Action” requiring the preparation of an environmental assessment or an environmental impact statement.

**SECTION 4.** If any section, subsection, phrase, or clause of this Ordinance is for any reason held to be unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Tribal Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unlawful or unconstitutional.

**SECTION 5.** Nothing contained in this Ordinance is intended to, nor does in any way, limit, alter, restrict, or waive the Agua Caliente Band of Cahuilla Indians’ sovereign immunity.

**SECTION 6.** The Tribal Council expressly reserves the right to alter, amend, or repeal this Ordinance if it determines that such action is in the best interest of the Tribe.

**SECTION 7.** This Ordinance shall become effective immediately upon its adoption.

**SECTION 8.** Upon the effective date of this Ordinance, any and all prior inconsistent resolutions, policies, ordinances, and/or procedures of the Tribe that pertain to the subject matter hereof are hereby repealed, superseded, and/or amended to comply with this Ordinance.

**SECTION 9.** Within fifteen (15) days after adoption, Tribal staff shall cause a summary of this Ordinance to be published one time in a newspaper of general circulation published and circulated on the Reservation.



**BE IT ADOPTED AND ENACTED** by the Tribal Council of the Agua Caliente Band of Cahuilla Indians, this 4<sup>th</sup> day of June, 2024.

Reid D. Milanovich, Chairman

Candace C. Patencio, Vice Chairman

Savana R. Saubel, Secretary-Treasurer

John R. Preckwinkle III, Member

Virginia Siva, Member

I, the undersigned, the Secretary-Treasurer of the Agua Caliente Band of Cahuilla Indians, hereby certify that the Tribal Council is composed of five members of whom 5, constituting a quorum, were present at a meeting whereof, duly called, noticed, convened and held on this 4<sup>th</sup> day of June, 2024; that the foregoing Ordinance was duly adopted at such meeting by the affirmative vote of 4-0-0 and that said Ordinance has not been rescinded or amended in any way.

Savana R. Saubel, Secretary-Treasurer