

AGUA CALIENTE BAND OF CAHUILLA INDIANS  
TRIBAL COUNCIL

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**ORDINANCE NO. 22-2024**

**AN ORDINANCE OF THE AGUA CALIENTE BAND OF  
CAHUILLA INDIANS ADDING A NEW CHAPTER 10.26  
TRIBAL CUSTOMARY ADOPTION 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 10.26 is hereby added to the Agua Caliente Tribal Code to read as follows:

**CHAPTER 10.26. TRIBAL CUSTOMARY ADOPTION**

**Sec. 10.26.010. Purpose.**

This Chapter shall be liberally interpreted and construed to fulfill the following expressed purposes:



- (a) To preserve the opportunity for Indian children to learn about their culture and heritage, and to become productive adult members of the Tribal community, by experiencing their culture on an ongoing basis.
- (b) To set forth the legal processes for orders of tribal customary adoption, in order to ensure that the best interests of the child are served by the establishment of a legal relationship between the child and the adoptive parent who will provide the child with love and appropriate care, guidance and supervision while maintaining, whenever possible, a connection to the child's biological parents and avoiding the need to terminate the biological parents' rights.
- (c) To provide a permanency option whenever reunification efforts have failed, or reunification is not appropriate or cannot be safely achieved.
- (d) To provide a permanency alternative to guardianship, conventional adoption, or long-term foster care that acknowledges the child's cultural values and the needs of the Tribe and where the child will benefit from having a multiplicity of familial, cultural, and Tribal ties.
- (e) To secure the rights of and ensure fairness to the children, parents, Indian custodians, guardians, and other individuals who come before the Tribal Court under the provisions of this Code.
- (f) To recognize and acknowledge the customs and traditions of the Tribe regarding child-rearing.
- (g) To preserve and strengthen each child's cultural and ethnic identity whenever possible by, for example, requiring visitation with extended family/Tribal Members, attendance at cultural events, and language classes, instead of leaving these practices up to the discretion of a guardian or conventional adoptive parent.
- (h) To recognize that the Tribal Court is in the best position to make decisions regarding Tribal Customary Adoption and to supervise the arrangement including any issues of concern, visitation, contact, and connections with the family and Tribe.

**Sec. 10.26.020. Jurisdiction over customary adoptions.**

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:

- (a) A member of the Tribe; or
- (b) Eligible for membership in the Tribe; or



- (c) The child of two adults who submit to the jurisdiction of the Tribal Court.

**Sec. 10.26.030. Eligibility of child for customary adoption.**

Every child who is within the jurisdiction of the Tribal Court pursuant to Section 10.26.030 and whose biological parents' parental rights have not been terminated at the time that the Petition for Customary Adoption is filed, may be adopted subject to the terms and conditions of this Chapter.

**Sec. 10.26.040. Order of preference for customary adoption.**

(a) The order for tribal customary adoption shall, in the absence of good cause to the contrary, as determined by the Tribal Court, be, in descending order of preference, as follows:

- (1) A member of the child's immediate family residing near the child's current home.
- (2) A member of the child's extended family residing near the child's current home.
- (3) A member of the child's immediate family.
- (4) A member of the child's extended family.
- (5) A person designated by the child's parent or approved by the Tribal Family Services Department.
- (6) A member of the Tribe residing near the child's current home.
- (7) A member of the Tribe not residing near the child's current home.
- (8) A member of an Indian tribe to which the child has hereditary connections.
- (9) A Tribally Approved Home licensed and specified by the Tribal Council or its designee pursuant to Chapter 10.22.
- (10) An Indian family residing near the child's current home.
- (11) An Indian family.
- (12) Any other suitable placement which meets the standards for foster care established by the Tribal Council.



(b) In any event, the agency or court effecting the placement shall follow the prioritization order so long as the placement is the least restrictive setting appropriate to the particular needs of the child.

**Sec. 10.26.050. Voluntary customary adoption.**

(a) Any biological, adoptive or acknowledge parent, Indian custodian, or other guardian of a child may relinquish any rights they may have to the care, custody, and control of a child.

(b) When a tribal customary adoption is voluntary, written consent 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 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 child, if emancipated from his parents, as evidenced by an order from a court of competent jurisdiction.

(3) If both parents are deceased and/or have had their parental rights 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.

(c) The Tribal Court may accept a voluntary consent to customary 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 customary adoption, has questioned the consenting person, and is satisfied that the consent is informed and voluntary.

(d) 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.

(e) 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.

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

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



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

**Sec. 10.26.060. Withdrawal of consent.**

- (a) Any consent given for the tribal customary adoption of a child may be withdrawn at any time prior to the entry of a tribal customary adoption order 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 tribal customary adoption. Consent may be withdrawn prior to the final order of tribal customary 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 tribal customary adoption renders any consent irrevocable.

**Sec. 10.26.070. When consent is not required.**

Written consent to a tribal customary adoption is not required if the Tribal Court orders a permanent plan for the child pursuant to paragraphs (d) or (e) of Section 10.14.240 of Chapter 10.14 of the Agua Caliente Tribal Code and/or the child is the subject of a tribal customary adoption proceeding filed pursuant to Section 366.24 of the California Welfare and Institutions Code or similar law of another State.

**SEC. 10.26.080. 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 tribal customary 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 tribal customary adoption prior to approving the child's consent.

**Sec. 10.26.090. Petition for customary adoption.**



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

(b) The petition for tribal customary 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 petitioners 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 customary adoption.

(8) A statement as to how the child has become, or will become, eligible for tribal customary adoption. If rights have been suspended, a copy of the state court or Tribal Court order suspending the rights must be attached to the petition. If a child is eligible for tribal customary 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 tribal customary 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 order suspending the parental rights of the biological parent.

(16) The facts which bring the child within the jurisdiction of the Tribal 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 an order for customary 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) A guardian ad litem may be appointed by the Tribal Court to assist the Court in determining if a customary 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, 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 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 Tribal Customary Adoption Order 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 Customary 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. 10.26.100. 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 or as otherwise ordered by the Tribal Court of the filing of a Petition for Customary Adoption or a supplemental report as to the suitability of the child for customary adoption, as well as to the financial, moral, physical fitness, general background of the adoptive home, and adoptive parent or parents.

(b) Contents of the report.

(1) The Tribal Family Services Caseworker shall conduct a tribal customary adoptive home study. The standard for the evaluation of the prospective adoptive parents' home shall be the prevailing social and cultural standard of the child's tribe. The home study shall include an evaluation of the background, safety, and health information of the adoptive home, including the biological, psychological, and social factors of the prospective adoptive parent or parents, and an assessment of the commitment, capability, and suitability of the prospective adoptive parent or parents to meet the child's needs.

(2) The home study shall also 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. 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.



(3) Tribal Family Services shall conduct an in-state check of the Child Abuse Central Index (CACI) consistent with Section 1522.1 of the Health and Safety Code as it applies to prospective adoptive parents and persons over 18 years of age residing in their household. If necessary, a check of any other state's child abuse and neglect registry shall be conducted.

(4) Prior to final approval of the tribal customary adoptive placement, Tribal Family Services shall conduct a state and federal criminal background check through the Department of Justice on the prospective tribal customary adoptive parents and on persons eighteen (18) years of age or over residing in their household. The standards for the background checks are the same as those applied to all other prospective adoptive parents in the State of California. Under no circumstances shall final approval be granted for an adoptive placement in any home if the prospective adoptive parent or any adult living in the prospective tribal customary adoptive home has any of the following:

a. a conviction for a non-exemptible offense enumerated in Section 1522 of the California Health and Safety Code.

b. a conviction for an offense that is eligible for an exemption under Section 1522 of the California Health and Safety Code and Tribal Family Services, or its designee has determined there is not substantial and convincing evidence to support a reasonable belief that the person convicted of the crime is rehabilitated and is presently of such good character as to justify granting an exemption for purposes of approving a tribal customary adoption.

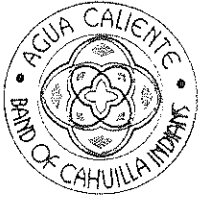
(5) The proposed adoptive parents and each member of the proposed adoptive parents' household, age eighteen (18) or over, must submit to a drug test.

(c) Tribal Family Services may delegate the performance of the CACI and criminal background checks to the county child welfare agency for a tribal customary adoption.

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

(e) 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.

(f) Determination on Petition. No determination can be made on a petition for customary adoption until the home study and 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 unless otherwise ordered by the Tribal Court. 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. 10.26.110. Hearing on petition for customary adoption.**

(a) Time Limit. A hearing shall be held within ninety (90) days of receipt of a petition to determine if it is in the child's best interest to be placed with the prospective adoptive parents or as otherwise ordered by the Tribal Court.

(b) Attendance at Hearing.

(1) The prospective adoptive parent or parents shall personally appear at the hearing. Failure to appear at the hearing shall be grounds for dismissal.

(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 and their counsel.

(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 customary 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 customary adoption.

(3) 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 customary adoption, the financial ability, and moral and physical fitness and responsibility of the prospective adoptive parents, and that the best interests of the child will be promoted by the adoption, may enter a tribal customary adoption order, 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 tribal customary adoption order.

- (5) In determining the best interests of the child, the Tribal Court shall examine:
- a. The validity of the written consent.
  - b. The modification or suspension 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 biological parent.
  - f. Child's consent to customary adoption if the child is more than twelve (12) years of age.
  - g. Home study and pre-adoption investigative report.
  - 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. 10.26.120. Findings and order on petition for customary 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 tribal customary adoption order 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 order of customary 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 order of customary adoption immediately.

(b) Contents of Customary Adoption Order. The tribal customary adoption order shall include findings of fact and conclusions of law necessary to establish that the child is eligible and suitable for customary 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 Section 10.26.070.

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

(4) All consents are voluntary and informed.

(5) The customary adoption is in the best interests of the child and the Tribal community.

(6) The Tribe does not oppose the customary 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 customary adoption.

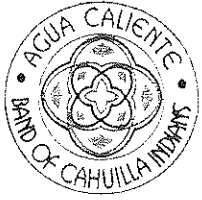
(9) A statement that the child has been adopted, pursuant to this Chapter's provisions regarding customary adoption, by the petitioner and that the parent-child bond is hereby established and that all of the rights and responsibilities of that relationship shall exist upon the entry of such order.

(10) A description of the modification of the legal relationship of the biological parents or custodian and the child, including:

- a. Visitation or contact between the child and the biological parents or Indian custodian, if any.
- b. Responsibilities of the biological parents or Indian custodian toward the child, if any.
- c. The rights of inheritance of the child from the biological parents.
- d. The rights of the biological or adoptive parents to inherit from the child.

(11) A description of:

- a. The child's legal relationship with his extended family.
- b. The child's legal relationship with the Tribe.
- c. Ceremonies and other cultural activities in which the child should participate.
- d. Any other item the Tribe believes is important for the child.
- e. Visitation or contact, if any, between the child and biological relatives, if adopted by non-relatives.
- f. The retention or removal of the child's surname.
- g. The addition of the adoptive family name.



(12) A copy of the order suspending the parental rights of the biological parents must be attached to the customary adoption order.

(c) Denying the Petition. If the Tribal Court is not satisfied that the customary adoption petition is in the best interests of the child, the petition shall be denied. The Tribal Court may request that the Tribal Family Services Department or other agencies authorized to provide such services assist in the placement and care of the child. Where the Tribal Court finds the best interests of the child will not be served by the adoption, a guardian shall be appointed and suitable arrangements made for the care of the child, in accordance with the applicable provisions of this Code.

(d) If the Tribal Court does not enter a tribal customary adoption order at the time of the hearing for customary 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. 10.26.130. 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. 10.26.140. Effect of final order of customary adoption.**

(a) After a final tribal customary adoption order 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 an order. The adopted child shall inherit real and personal property from the adopting family and the adopting family may 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 or as otherwise determined by the Tribal Court.



(b) The tribal customary adoption order creates a permanent placement and legal relationship between the adopted child and the petitioner, while suspending and not completely terminating the biological parent's parental rights, allowing for the biological parent-child relationship to be maintained as determined by the Tribal Court to be in the best interests of the child.

(c) After a tribal customary adoption order pursuant to this Chapter is entered, the child shall retain all rights to membership in the tribe by virtue of his birth to said biological parents unless otherwise inconsistent with Tribal law.

(d) An order of adoption 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. 10.26.150. 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. 10.26.160. 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 otherwise requested by the prospective adoptive parents or ordered by the Tribal Court. 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 an adopted child who would not be otherwise eligible under Tribal law. 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. 10.26.170. Additional hearings postadoption.**

Final orders of a customary adoption may be modified by the Tribal Court only if a substantial change of circumstance occurs, such as the adoptive parent is deceased without the appointment of a legal guardian and there are no provisions within a will providing for the care and custody of the child. Notice of a proposed modification shall be provided to all parties to the hearing at which the final order was issued.





**Sec. 10.26.180. 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 tribal customary 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.

(3) Consistent with 25 C.F.R. Section 23.138, upon application by an Indian who has reached age 18 who was the subject of an adoptive placement, the Tribal 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. 10.26.190. 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. 10.26.200. Finality.**

All judgments of the Tribal Court, including an order suspending parental rights and issuing a customary 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