



ORDINANCE NO: 23  
OF THE AGUA CALIENTE BAND OF CAHUILLA INDIANS

INTRODUCTION and SCOPE:

ONE HUNDRED TEN

A. TITLE. This ordinance shall be titled, and quoted as the "Tribal Administrative and Development Fee Appeal Ordinance."

NORTH INDIAN CANYON DR.

B. PURPOSE. It is the purpose of this Ordinance to establish and define procedures whereby the Tribal Council of the Agua Caliente Band of Cahuilla Indians will receive and consider the appeal of an Appellant, as such party is hereinafter defined, who is aggrieved by or suffers a hardship from the application of Administrative Fees or Development Fees applicable to use of Indian trust land within the exterior boundaries of the Agua Caliente Indian Reservation, and, the Tribal Council after consideration of said appeal, will affirm, modify, or waive the fees pursuant to an Administrative Fee Schedule approved by the Tribal Council and, Bureau of Indian Affairs, Palm Springs Field Office on December 16, 1992.

PALM SPRINGS.

CALIFORNIA

92262

TELEPHONE  
(619)325-5673

C. DEFINITIONS. For the purpose of carrying out the intent of this Ordinance, words, phrases, and terms shall be deemed to have the meaning ascribed to them in the following paragraphs covering definitions.

FAX  
(619)325-0593

When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural; and those in the plural number include the singular; words in the masculine gender include the feminine; and those in the feminine gender include the masculine; "or" includes "and" and "and" includes "or". The word "shall" is mandatory; the word "may" is permissive.

1. ADMINISTRATIVE FEES. Those fees established by the Tribal Council and approved by the Secretary of the interior to generally offset the costs of reviewing, recording, verifying, filing and/or other tasks necessary for the conveyance, rental use and leasing of land or title record research and other transactions normally performed by the Tribe.



2. APPELLANT shall include any individual(s) or entity aggrieved or, in their opinion, are harmed by the application of Administrative Fees on real estate transactions and/or Development Fees on land use regulatory permits of trust land located within the Agua Caliente Indian Reservation who is: (1) A member of the Agua Caliente Band of Cahuilla Indians; (2) A member of a current Tribal Council of the Agua Caliente Band of Cahuilla Indians; (3) A holder or potential holder of a beneficial or possessory interest in Indian trust land within the boundaries of the Agua Caliente Indian Reservation, including but not limited to heirs, devisees, or successors in interest to original allottees; or (4) The lessee, potential lessee, or authorized agent of an individual(s) described in (1), (2), or (3) above.
3. DEVELOPMENT FEES. Those fees established by the Tribal Council related to the authorization of use and development of Indian trust land.
4. INDIAN PLANNING COMMISSION shall mean the Planning Commission appointed by the Tribal Council, Agua Caliente Band of Cahuilla Indians.
5. INDIAN TRUST LAND shall mean any real property, including water rights, belonging to the Agua Caliente Band of Cahuilla Indians, or to any member of said Band, that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, as well as any structures or improvements erected or maintained on such realty.
6. TRIBAL COUNCIL shall mean the Tribal Council of the Agua Caliente Band of Cahuilla Indians.
7. TRIBAL OFFICIAL shall mean any person employed, contracted or appointed by the Tribe who may have expertise related to land use, real estate, finance, land titles, records or legal matters such as the Tribal Attorney, Tribal Chief Financial Officer, Tribal Planning Director, etc.



A. **APPEALABLE FEES.** Appealable fees are those Administrative Fees, Development Fees or any other fees established by the Tribal Council related to processing of transactions or permits on Indian trust land.

B. **FORM and PERIOD FOR FILING APPEALS.**

1. Appeals to fees established by the Tribal Council must be initiated by an Appellant by his filing in triplicate a Notice of Appeal form, as prescribed by the Tribal Council, which is completely filled out.

2. The Notice of Appeal must be filed in the office of the Tribal Council within a period of ten (10) days from the date of receipt by an appellant of the written notification by the Bureau of Indian Affairs or Tribal Council that the subject fee is due and said Notice being accompanied by a filing fee of One Hundred Dollars (\$100.00), or ten percent (10%) of the subject fee, whichever is less, in cash, personal check, cashiers or certified check, money order, or bank draft, payable to said Tribal Council. Unless the appellant can demonstrate to the contrary to the satisfaction of the Tribal Council, receipt of such a written decision by an Appellant shall be deemed to have occurred three (3) days after the date appearing on the face of said written notice.

3. In order that the transaction or process related to the appealable fee may proceed or be authorized, an Appellant may pay any fee in protest and appeal said fee by meeting the following requirements:

- a. The subject fee must be paid in full when due.
- b. Within ten (10) days of payment of said fee, the Appellant must submit to the party receiving said fee a Letter of Protest, containing a brief reason for protest and intent to appeal.
- c. Comply with Section II.B. of this Ordinance.

4. The Notice of Appeal shall clearly identify the facts and circumstances which, in the opinion of the Appellant, indicate the hardship or damage by the fee charged has produced and wherein the waiver or modification of the subject fee would remedy the hardship or damage.



5. Within a period of thirty (30) days of the date of filing a Notice of Appeal, the Appellant of record thereon shall file, in the office of Tribal Council, the following informational documents:

a. A complete duplicate copy of the record and material subject to the appealable fee such as leases, permits, title reports, etc.

b. A written statement by the Appellant indicating where, in his or her opinion, the material required in a. above, support the modification or reversal of the decision of the City Council. This written statement may be of any length the Appellant desires, but shall be accompanied by a one-page summary thereof if the length of the principal statement exceeds three (3) pages.

6. Any Notice of Appeal, or duplicate copies of the record, transcripts or minutes, and the statement by Appellant, not filed within the time limits specified in Paragraphs 2., and 4., above, shall be dismissed by the Tribal Council with notice being sent to the Appellant of such action and the reason therefor. The time in which any act provided by this ordinance is to be done shall be computed by excluding the first day and including the last day, unless that last day falls on a day on which the offices of the Tribal Council and Bureau of Indian Affairs are not open for regular business, in which case the last day for performing such an act shall be the first day after that last day when the offices of the Tribal Council and the Bureau of Indian Affairs are open for regular business.

### III. TRIBAL COUNCIL ACTION ON APPEALS.

A. REFERRAL and STUDY. When an Appeal is complete and filed in full compliance with the provisions of Section II. B. above, the Tribal Council may refer said Appeal to a Tribal Official or Officials and, if applicable, to the Indian Planning Commission for report or comment, except as follows:

1. When the Tribal Council determines that additional specialized studies are desirable to resolve the issues of an appeal, said Tribal Council may direct the Appellant to provide additional data and conclusions from qualified experts in particular fields, and within a period of sixty (60) days of the date of such direction, with said Appellant bearing the full and total cost of such additional data and conclusions.



2. The Tribal Official(s) and the Indian Planning Commission shall have the benefit of review of additional specialized studies, prior to submitting final reports or comments to the Tribal Council.

B. **FORMAL CONSIDERATION.** The Tribal Council shall schedule and attend at least one meeting with the Appellant, at which time the Appellant, his Counsel, or his representative may be heard. Comments of the Appellant and/or his or her representatives, shall be subject to reasonable restrictions which might be imposed by the Tribal Council to limit the length of the meeting and to avoid repetition of information already in the record. The Tribal Council shall have, at their sole discretion, the benefit of any persons, documents, or exhibits present at the meeting which may aid in their decision.

C. **DECISION BY TRIBAL COUNCIL.** The Tribal Council shall make a decision, either affirming, waiving, or partially waiving the subject fee on appeal, at the required meeting, or within a period of thirty (30) days thereafter.

1. The decision of the Tribal Council shall be in writing, and effective on the date thereof, with copies being mailed to the Appellant, and the Bureau of Indian Affairs, Palm Springs Field Office.

2. In its consideration of all such appeals, the standard of decision to be used by the Tribal Council will be:

(a) Will imposition of the subject fees, either in their entirety or in part, work a significantly greater hardship on the applicant not shared by others in the same situation?

Or

(b) Are other unusual and non-recurring factors present in this case for which relief from such fees, either in whole or in part, will promote the orderly and expeditious development of Indian trust lands at their highest and best use without jeopardizing the integrity of the administrative fee program or setting undesirable precedents?

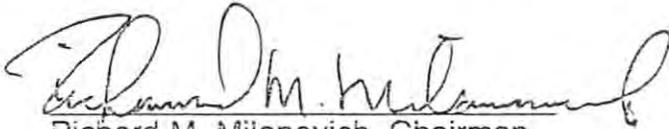
3. In proper cases, the Tribal Council decision on an appeal may include conditions affecting use and development of the Indian trust land involved.

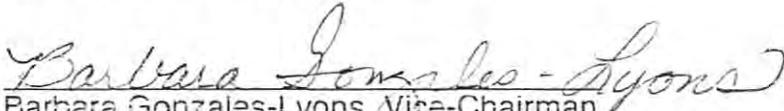


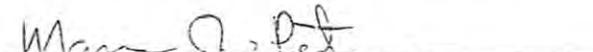
4. The decision of the Tribal Council shall be final. The action of the Tribal Council shall not be construed as granting any transaction and/or authorization related to or subsequent to the appeal, nor shall it invalidate the subject fee or any established fee in the future.

D. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption by the Tribal Council in order to promote and assist the expeditious, timely, and orderly use and development of Indian trust lands located on the Agua Caliente Indian Reservation and shall remain in full force and effect except as may be amended or repealed by the Tribal Council. This ordinance shall be published once in a newspaper of general circulation in the City of Palm Springs within five (5) days of the adoption of this ordinance by the Tribal Council.

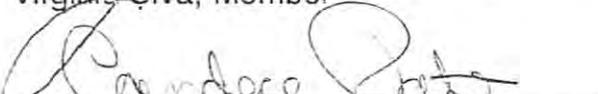
BE IT ENACTED by the Tribal Council of the Agua Caliente Band of Cahuilla Indians, this 31st day of October.

  
Richard M. Milanovich, Chairman

  
Barbara Gonzales-Lyons, Vice-Chairman

  
Marcus J. Pete, Secretary/Treasurer

  
Virginia Siva, Member

  
Candace Pate, Member