



AGUA CALIENTE BAND OF CAHUILLA INDIANS
TRIBAL COUNCIL

JEFF L. GRUBBE CHAIRMAN • REID D. MILANOVICH VICE CHAIRMAN
VINCENT GONZALES III SECRETARY/TREASURER • ANTHONY W. PURNEL MEMBER

**ORDINANCE NO. 26
AMENDMENT NO. 5**

**TRIBAL BUILDING AND SAFETY CODE
AND
TRIBAL FOOD AND BEVERAGE HANDLING STANDARDS**

I. INTRODUCTION

- A. Title: This Ordinance shall be entitled the “Tribal Building and Safety Code and Tribal Food and Beverage Handling Standards” an ordinance of the Agua Caliente Band of Cahuilla Indians.
- B. Purpose: The purpose and intent of this Ordinance is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of material, use and occupancy, location and maintenance of all buildings and structures on the Agua Caliente Indian Reservation not covered under a land use agreement between the Tribe and a local jurisdiction; to provide practical safeguarding from hazards arising from the use of electricity, heating, ventilating, cooling, refrigeration systems, and incinerators; to establish requirements for the inspection of food facilities; to provide minimum standards for food handling; and to adopt and enforce rules and regulations necessary to clarify the application of the provisions of this Ordinance.
- C. Scope: This Ordinance shall apply to those portions of the Reservation not covered under a land use agreement between the Tribe and a local jurisdiction.
- D. Definitions: For the purpose of this Ordinance, the following words or phrases shall have the following definitions:
1. “Tribe” shall mean the Agua Caliente Band of Cahuilla Indians, a federally recognized Indian tribe, acting through its duly constituted Tribal Council.
 2. “Agua Caliente Indian Reservation” or “Reservation” shall mean all land within the exterior boundaries of the Agua Caliente Indian Reservation as established by Presidential Executive Order, federal patent, and/or deed plus any other lands held in trust by the United States for the benefit of the Tribe.
 3. “Tribal Council” shall mean the Tribal Council of the Agua Caliente Band of Cahuilla Indians.



4. "Tribal Building Official" shall mean the Chief Planning & Development Officer of the Tribe, or his/her designee(s), having all of the power and duties as assigned by the Tribal Council.

II. STATEMENT OF FINDINGS

- A. The Agua Caliente Indian Reservation was established for the exclusive use and benefit of the Tribe and its members.
- B. The economic welfare, attractiveness, and community character of the Agua Caliente Indian Reservation is attributable to its unique aesthetic features and setting. The Tribal Council of the Agua Caliente Band of Cahuilla Indians finds that the adoption of certain minimum standards for food facility inspection, food handling and the design, construction, quality, and use of material for the proper maintenance of all facilities on portions of the Reservation covered by this Ordinance and the fixtures and appliances attached thereto, is necessary to protect the economic welfare, attractiveness, and character of the community.
- C. This Ordinance is enacted under the inherent sovereign authority of the Tribe and pursuant to Article V (Powers of the Tribal Council), paragraphs (a), (b), (f), (g), and (l), of its Constitution and Bylaws, as amended, as well as pursuant to any applicable delegations of federal authority to the Tribe for treatment as a state, or otherwise, under federal law.

III. TRIBAL BUILDING AND SAFETY CODE

- A. Citation of the Tribal Building and Safety Code: This Ordinance and the following enumerated codes (hereinafter collectively referred to as the "California/International Building Standards Codes"), except as hereinafter modified or amended, may be collectively referred to and cited as the "Tribal Building and Safety Code" of the Tribe:
 1. 2019 California Building Code, California Code of Regulations, Title 24, Part 2, Volumes 1 and 2, including Appendices C, F, G, H, I, and J and all tables and indices thereto;
 2. 2019 California Residential Code, California Code of Regulations, Title 24, Part 2.5, including Appendices A, B, C, G, H, I, J, K, and P and all tables and indices thereto;
 3. 2019 California Electrical Code, California Code of Regulations, Title 24, Part 3, including all appendices, tables and indices thereto;



4. 2019 California Mechanical Code, California Code of Regulations, Title 24, Part 4, including all appendices, tables and indices thereto;
 5. 2019 California Plumbing Code, California Code of Regulations, Title 24, Part 5, including Appendices A, B, D, F, H, I and all tables and indices thereto;
 6. 2019 California Energy Code, California Code of Regulations, Title 24, Part 6, including all appendices, tables and indices thereto;
 7. 2019 California Fire Code, California Code of Regulations, Title 24, Part 9, including all appendices, tables and indices thereto;
 8. 2019 California Green Building Standards Code, California Code of Regulations, Title 24, Part 11, including all appendices, tables and indices thereto;
 9. 2018 International Property Maintenance Code, including all appendices, tables and indices thereto;
 10. 2018 International Swimming Pool and Spa Code, including all appendices, tables and indices thereto.
- B. Tribal Building and Safety Code – Adopted: The certain documents referred to in Section III. A., except as hereinafter modified or amended, are adopted as the “Tribal Building and Safety Code” of the Tribe.
- C. California/International Building Standards Codes – Amendments and deletions: The California/International Building Standards Codes adopted herein by reference are amended by the following amendments and deletions:
1. Unless the context otherwise requires, whenever the terms “city,” “county” or “city and county” are referred to in the California/International Building Standards Codes, the term shall mean the “Tribe” as defined herein.
 2. Unless the context otherwise requires, whenever the terms “building official,” “enforcement agency,” or “enforcement agent” are referred to in the California/International Building Standards Codes, the term shall mean the “Tribal Building Official” as defined herein.



D. California Building Code – Additions, amendments, and deletions: The California Building Code adopted herein by reference is amended by the following additions, amendments, and deletions:

1. Subsection 903.2, Where Required, is amended to read: Where required, an approved automatic fire sprinkler system shall be installed as described in this Section, and in every building where the gross floor area exceeds 3,000 square feet, or any building regardless of size which is built beyond a five minute Fire Department emergency response time as defined from time to time by resolution of the Tribal Council or county or city with which the Tribal Council has so authorized.

Notes:

- a. For purposes of this code section regarding business size, fire resistive walls shall not be considered for purposes of reducing the gross floor area of the building.
 - b. In all Group R occupancies, the locally modified standard for installation of sprinkler systems in residential occupancies shall be used.
2. The following subparagraph J112 is added to Appendix Chapter J, Subsection J112, Engineered Grading Requirements, concerning information on plans and specifications: An effective means of dust control which shall include provisions for adequate watering during the grading process and provision for continuance of dust control presents sufficient protective cover against wind or water erosion so that special dust control measure are no longer necessary.

E. California Mechanical Code – Additions, amendments, and deletions: The California Mechanical Code adopted herein by reference is amended by the following additions, amendments, and deletions:

1. Subsection 310.1, Condensate Disposal, is hereby amended to read as follows: Condensate from air cooling coils, fuel burning condensing appliances and the overflow from evaporative coolers and similar water-supplied equipment shall be collected and conducted to an approved place of ground absorption and shall not be permitted to discharge onto a road, structure road, walkway, traversable area of the grounds or into the street. Condensate water may be conducted to an approved place of ground absorption via a roof drain.



IV. TRIBAL FOOD AND BEVERAGE HANDLING STANDARDS

- A. Citation to Tribal Food and Beverage Handling Standards: This Ordinance and Sections 8.40.010, 8.40.020, 8.40.030, 8.40.040, 8.40.060, 8.40.080 of Chapter 8.40 of the Riverside County Code (as of August 13, 2019) and Chapter 8.44 of the Riverside County Code (as of August 13, 2019) (hereinafter collectively referred to as the “Riverside County Code”), including all appendices, tables and indices thereto, except as hereinafter modified or amended, may be collectively referred to and cited as the “Tribal Food and Beverage Handling Standards.”
- B. Tribal Food and Beverage Handling Standards – Adopted: The certain provisions referred to in Section IV. A., except as hereinafter modified or amended, are adopted as the “Tribal Food and Beverage Handling Standards” of the Tribe.
- C. Riverside County Code – Additions, amendments, and deletions: The Riverside County Code adopted herein by reference is amended by the following additions, amendments, and deletions:
1. Unless the context otherwise requires, whenever the terms “County of Riverside,” “County” or “Riverside County” are referred to in the Riverside County Code, the term shall mean the “Tribe” as defined herein.
 2. Unless the context otherwise requires, whenever the terms “Department,” “Department of Environmental Health” or “Riverside County Environmental Health Department” are referred to in the Riverside County Code, the term shall mean the “Tribal Building Official” as defined herein.
 3. Unless the context otherwise requires, whenever the term “enforcement officer” is referred to in the Riverside County Code, the term shall mean the “Tribal Building Official” as defined herein.
 4. Unless the context otherwise requires, whenever the term “fee” is referred to in the Riverside County Code, the term shall mean the applicable fee set forth in a schedule of fees established by resolution of the Tribal Council.
 5. Subsection D. of Section 8.40.030, Inspections, is hereby amended to read as follows: If after a re-inspection of the permanent Food Facility, the score is not ninety (90) percent or higher, the Tribal Building Official may issue a notice to correct or administrative notice of



violation pursuant to the Tribal Food and Beverage Handling Standards.

6. Subsection A.4.d. of Section 8.44.120, Hearing officer's decision, is hereby amended to read as follows: The hearing officer, based upon the evidence submitted, shall either dismiss or uphold the citation. The citation recipient shall receive a refund of the full penalty assessment if the citation is dismissed. The hearing officer's decision following the administrative hearing shall be personally delivered to the person requesting the hearing or sent by first class mail. The hearing officer may allow payment of the administrative penalty in installments, if the person provides evidence satisfactory to the hearing officer of an inability to pay the penalty in full. The decision of the hearing officer shall be final.
7. Subsection A.5. of Section 8.44.120, Review of administrative hearing officer's decision, is hereby deleted in its entirety.

V. COMPLIANCE AND ENFORCEMENT

- A. The Tribal Building Official shall administer, enforce, and render interpretations of all the provisions of this Ordinance.
- B. For the purposes of this Ordinance, the Tribal Council intends that the Tribe shall comply with and enforce standards no less stringent than set forth in Sections III and IV.
- C. The existence of violations of the standards set forth in this Ordinance will be determined in accordance with the following provisions:

Qualified building and safety experts, under the direction of the Tribal Building Official, shall be authorized to enter upon private or public property to enforce the provisions of this Ordinance, or for the purpose of making any inspection, re-inspection or test of any work performed pursuant to this Ordinance, to determine that such property, or portions thereof, meet all applicable standards set forth in this Ordinance and thereby do not endanger the health or safety of occupants or the integrity of the Reservation.

- D. Any violation of this Ordinance shall be, and the same is declared to be, unlawful and a public nuisance.
- E. A notice to correct or stop order shall be served in accordance with the following provisions, unless otherwise set forth in this Ordinance:



1. Whenever a violation is discovered which can be corrected, the Tribal Building Official shall issue a notice to correct in order to notify the responsible party of the violation and to order that the violation be corrected within a reasonable time. Unless a different period is specifically set forth in this Ordinance, ten (10) calendar days shall be considered a reasonable time to correct any violation.

The notice to correct shall be in writing and shall set forth the facts that constitute the violation, the specific provisions of this Ordinance which have been violated, the specific acts required to correct the violation, the time allowed to correct the violation, and the rights to appeal the notice to correct. If the violation is related to a license or permit, the notice to correct may be accompanied by a stop order which orders the responsible party to immediately stop any and all work on the project that is subject to the license or permit until the violation is corrected. The notice to correct shall be posted on the subject property and/or sent by first class mail to all responsible parties.

2. If the violation that is the subject of the notice to correct concerns the failure to apply for and/or obtain a valid permit, the time allowed for application for a permit shall be no less than seven (7) calendar days and no more than thirty (30) calendar days. A stop order shall accompany the notice to correct, and shall remain in effect pending the review of and decision on any permit application.
 3. If the violation that is the subject of the notice to correct concerns (a) the failure to comply with conditions placed on a permit or other entitlement issued by the Tribe, or (b) a violation of any provision of this Ordinance, the time allowed to correct the violation shall be a minimum of twenty-four (24) hours and a maximum of ninety (90) calendar days, depending upon the type of action that will be necessary to correct the violation. If the violation creates a potential risk of harm to persons or property, a stop order may accompany the notice to correct, and shall remain in effect until the violation has been remedied to the satisfaction of the Tribal Building Official.
- F. If the Tribal Building Official determines that there has been a good faith effort to correct the violation(s) set forth in a notice to correct, the Tribal Building Official may extend the deadline for compliance for a reasonable period of time. Any such extension shall be memorialized in writing and copy shall be sent by first class mail to all responsible parties.



- G. A notice of “administrative violation” of this Ordinance may be issued under any of the following circumstances:
1. When the violation cannot be corrected;
 2. When the violation can be corrected, a notice to correct has been served, and the specified time has passed without adequate correction of the violation;
 3. When a stop order has been issued and has not been complied with by the responsible party; or
 4. When the same violation has been committed by the same responsible party within the past twelve (12) months and a notice to correct or notice of administrative violation has been served on the responsible party within that same twelve (12) month period.
- H. Unless a different penalty is otherwise established by the Tribal Council and specifically set forth by ordinance, administrative violations shall be subject to a fine in the amount of one hundred dollars (\$100.00) per day each day the violation persists. Fines shall be charged against the responsible party, subject to the determination of the Tribal Building Official, at the time of violation. Failure to pay any fine issued under this Subsection within thirty (30) calendar days may result in the suspension, revocation, or denial of any license or permit issued to the responsible party pursuant to this Ordinance.
- I. Prior to the suspension, revocation, or denial of any license or permit, or the assessment of any fee or charge, or the commencement of any other enforcement action pursuant to this Ordinance, the Tribal Building Official shall follow the procedures as set forth in Section IV.
- J. In the event of any conflict between this Ordinance and any law, rule, or regulation of the Federal Government, that requirement which establishes the higher standard of safety shall govern. Failure to comply with such standard of safety shall be a violation of this Ordinance.
- VI. JURISDICTION, SOVEREIGN IMMUNITY

Nothing herein shall be construed as a submission of the Tribe to the jurisdiction of the State of California, any political subdivision thereof or any county, city or other local public agency. Adoption and implementation of this Ordinance shall not be construed as a waiver of Tribal sovereign immunity.



VII. CONFLICTS

Where the requirements of the California Building Standards Codes or Riverside County Code conflict with the requirements of this Ordinance or any other ordinance, resolution, law or regulation of the Tribe, the requirements of the Tribe shall prevail.

VIII. SEVERABILITY

If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Tribal Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

IX. PRIOR ORDINANCES AND AMENDMENTS

This Amendment No. 5 shall supersede and replace all previous versions of the Tribal Building and Safety Code, and may be amended as necessary by the Tribal Council of the Agua Caliente Band of Cahuilla Indians.

BE IT ADOPTED AND ENACTED by the Tribal Council of the Agua Caliente Band of Cahuilla Indians, this 4th day of February, 2020.

Not Present

Jeff L. Grubbe, Chairman

Reid D. Milanovich, Acting Chairman

Vincent Gonzales III, Secretary/Treasurer

Anthony W. Purnel, Member

Christel Siva, Proxy



Ordinance No. 26
Amendment No. 5
Page 10 of 10

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 4, constituting a quorum, were present at a meeting whereof, duly called, noticed, convened and held on this 4th day of February 2020; that the foregoing ordinance was duly adopted at such meeting by the affirmative vote of 3-0-0 and that said ordinance has not been rescinded or amended in any way.



Vincent Gonzales III, Secretary/Treasurer