



**CURYUNG**  
TRIBAL COUNCIL

**JUDICIAL CODES**  
**TITLE I AND TITLE II**

Updated July 2017

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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code**

### **TITLE I: Tribal Court Operations**

#### **CHAPTER 1**

#### **General Provisions**

##### **Section 1. Authority and Relation to Unwritten Tribal Law**

##### **Section 2. Purpose**

##### **Section 3. Name**

##### **Section 4. Jurisdiction of the Tribe**

##### **Section 5. Interpretation and Severability**

#### **SECTION 1. Authority and Relation to Unwritten Tribal Law**

Under inherent sovereignty of Indian Tribes of the United States and under the authority granted to the Curyung Tribal Council under Article \_\_\_\_ of the Curyung Tribal Constitution, the Curyung Tribal Council proposes to adopt this code of Tribal Ordinances. These Ordinances may be amended, repealed, or added to under the provisions of Chapter 2 of this Title.

The intent of the following Ordinances are not meant to undermine or eliminate unwritten laws and customs of the Tribe. Unwritten Traditional law has always been in place and the following written law will not replace the application of unwritten traditional law. The Curyung Tribe will continue to value and implement the knowledge of those customs and beliefs that cannot be written. Unwritten Traditional law shall be the highest form of law that the Tribe shall abide. If any written law conflicts with unwritten law, Traditional law shall prevail.

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## **SECTION 2. Name**

In this Code of Ordinances, the Tribe shall be referred to as the Curyung Tribe. The body responsible for making decisions on behalf of the Tribal membership shall be referred to as the Curyung Tribal Council. The Tribe's judiciary shall be referred to as the Curyung Tribal Court.

## **SECTION 3. Jurisdiction of the Tribe**

The jurisdiction of the Curyung Tribe shall extend over matters arising:

1. In the Curyung Tribe's Indian Country; and /or
2. Over all Tribal members within or outside Indian Country; and /or
3. Over all persons and entities who entered into consensual relations with the Tribe or Tribal members or whose activities affect the political integrity or economic security of the Tribe or health or welfare of the Tribe or Tribal members; and /or
4. Over any matters so delegated by Congress.

## **SECTION 4. Interpretation and Severability**

The following Ordinances shall be liberally interpreted to give full effect to the purposes for which they were adopted.

The Ordinances shall generally be interpreted as civil in nature and any violations shall not be interpreted as a criminal offense unless specifically provided by them.

If any provision of these Ordinances, or their application to any person or legal entity or circumstances, is held invalid, the remainder of the Ordinances, or the application of the provision to other persons or legal entities or circumstances, shall not be affected.

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The unwritten custom law of the Curyung Tribe shall remain in place and shall not be infringed upon by this Judicial Code.

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# CURYUNG TRIBAL COUNCIL

## Judicial Code

### TITLE I: Tribal Court Operations

#### CHAPTER 2

#### Adopting, Amending, and Repealing Ordinances

##### SECTION 1. Generally Accepted Procedure

**PROPOSALS:** Proposals to adopt, amend, or repeal any Ordinance may be proposed to the Curyung Tribal Council by a council member, or by any enrolled member of the Curyung Tribe at a regular Council meeting.

**NOTIFICATION:** After an Ordinance proposal is made to the Tribal Council, the Council shall set a time for the proposal to be discussed. The Council shall make the proposal available to Tribal members and shall post notice of when and where the discussion about the proposal will take place. The notice shall be posted at least one (1) week prior to the meeting in the Curyung Tribal main office notice board under "Tribal Notices".

**OPPORTUNITY TO SPEAK:** All meetings in which ordinance proposals are discussed, and/or voted on, shall be open to the general Tribal membership. Tribal members shall have the opportunity to speak as directed by the Curyung Tribal Chief. If an ordinance is adopted or amended, the Tribal Council shall make copies available to Tribal members.

**ADOPTION OF PROPOSAL:** Ordinances shall be adopted, amended, or repealed by resolution or certification. An affirmative vote by a majority of those Tribal council members in attendance at a regular meeting is necessary to adopt, amend, or repeal ordinances. Ordinances shall be put to a referendum vote on ordinance proposals even if it is not specifically called for, if supported by a majority of those Tribal Council members in attendance at a regular

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meeting. Upon adoption, the ordinance resolution or certification shall be signed and dated by the Tribal Chief and attested to by the 3rd Chief.

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# CURYUNG TRIBAL COUNCIL

## Judicial Code

### TITLE I: Tribal Court Operations

#### CHAPTER 3

#### Judicial Ethics

##### Section 1. Purpose

##### Section 2. Ethics Guidelines

##### Section 3. Oath of Confidentiality, Fairness, & Impartiality

#### SECTION 1. Purpose

Curyung Tribal Court Judges, Court staff, and appointed Court representatives are leaders and represent the Curyung Tribe. As such, these Tribal Court officials and Court representatives are role models for the Tribal membership. The purpose of this Chapter is to promote responsible leadership. All Tribal Judges and Court representatives shall follow the following guidelines. Tribal Judges and Court representatives who violate these guidelines may be subject to repaying of per diem/meeting fees, or other reimbursement, and/or removal from their position from the Court. Removal shall be reserved for the most habitual and/or most serious situations, and then only be carried out according to Chapter \_\_\_\_\_, Section \_\_\_\_\_ of this title.

#### SECTION 2. Ethical Guidelines

1. ALCOHOL & DRUGS: Tribal Court Judges and Court representatives shall not attend meetings, Court sessions, workshops, or training sessions while carrying out their official duties of their Tribal office or otherwise representing the Curyung Tribe while under the influence of alcohol or illegal drugs.

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2. TRAVEL: Whenever Tribal Court representatives are on travel status and performing duties as official representatives of the Curyung Tribe, they shall maintain high ethical behavior and conduct themselves in such way that reflects positively on the Curyung Tribe. Those on approved travel status shall attend all meetings or work sessions relating to the activity they are attending unless they are ill or circumstances exist beyond their control.
  3. CONFIDENTIAL INFORMATION: Tribal Court representatives shall not disclose or use confidential information acquired in the course of their official duties. Tribal Court Judges and Court representatives shall take an oath of confidentiality, fairness, and impartiality outlined in Section 3, prior to every case that comes before the Tribal Court.
  4. ECONOMIC BENEFIT: Tribal Court Judges and Court representatives shall not accept bribes for official action. They may, however, accept non-monetary gifts or public awards for recognition of service.
  5. NEPOTISM AND FAVORITISM: Tribal Court Judges and Court representatives shall not exert excessive influence or favoritism to pressure others to alter decisions in cases, or where it may benefit their immediate family members.

### **SECTION 3. Oath of Confidentiality, Fairness, & Impartiality**

Tribal Court Judges, the Tribal Court Clerk, or any Court representative(s) who participate in a Tribal Court case, shall take the following oath of confidentiality, fairness, and impartiality prior to a hearing:

“I \_\_\_\_\_, do solemnly swear and affirm that I will not discuss the proceedings of this case outside of the chambers of the Elayne Ingram Honorary Courtroom. I shall maintain respect due the Curyung Tribal Court by striving for fairness and impartiality in the Tribal Court proceedings that comes before me.”

Violators of this oath may be subject to removal of their position, and /or contempt of Court.



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# CURYUNG TRIBAL COUNCIL

## Judicial Code

### TITLE I: Tribal Court Operations

#### CHAPTER 4

#### Rights of Tribal Members

#### Section 1. Civil Rights

#### SECTION 1. Civil Rights

The Curyung Tribe shall provide all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968, as amended. In summary, the Tribal Government shall:

1. Not prohibit the free exercise of speech, press, religion, or rights of the people to assemble peacefully or file grievances against the Tribal Government.
2. Not allow unreasonable search and seizure or issue search warrants without probable cause.
3. Not try anyone for the same offense twice.
4. Not make any person testify against him/her self in a criminal matter.
5. Not take private property for public use without paying the owner the fair market value.
6. Not deny a person the right to a speedy trial. A speedy trial is generally assumed to be a trial within ninety (90) days or less. The accused person must be informed of the nature of the offense he is accused of, told about any witnesses against them, be allowed to have witnesses testify, and be allowed a lawyer at their own expense.

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7. Not impose excessive bail or fines, nor impose cruel or unusual punishments. The Tribal Court cannot impose a penalty greater than \$5,000 or one year in jail, or both for any one offense.
  8. Give all persons equal protection under Tribal laws.
  9. Not pronounce anyone guilty of a crime or civil violation without a fair trial. The Tribal Council shall not pass an ordinance and charge a person with a violation of that ordinance or change penalties, after an incident. (Ex Post Facto)
  10. Provide anyone accused of an offense punishable by jail time the right to a trial jury of no less than six persons.

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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code**

### **TITLE I: Tribal Court Operations**

#### **CHAPTER 5**

#### **Tribal Court Structure**

##### **Section 1. Purpose**

##### **Section 2. Authority**

##### **Section 3. Jurisdiction**

##### **Section 4. Tribal Court Judges**

##### **Section 5. Judging Panels**

##### **Section 6. Presiding & Sitting Judges**

##### **Section 7. Conflict of Interest**

##### **Section 8. Judicial Decisions & Advisors**

##### **Section 9. Tribal Court Clerk**

#### **SECTION 1. Purpose**

The purpose of the Curyung Tribal Court is to protect the health, safety, and the welfare of its tribal members, and to help solve problems locally through the application of unwritten Curyung Tribal cultural traditions and written tribal ordinances.

#### **SECTION 2. Authority**

The governing body of the Curyung Tribe has the authority to operate a Tribal Court under its inherent sovereignty as a Native Alaskan Tribe and as outlined in Article \_\_\_\_ of the Tribal Constitution.

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### **SECTION 3. Jurisdiction**

The Curyung Tribal Court shall follow jurisdictional guidelines set forth in Tribal Court Ordinance 95-01 as amended.

### **SECTION 4. Tribal Court Judges**

1. Judges shall be appointed by the Curyung Tribal Council to serve as the Curyung Tribal 1. Court.
2. These judicial appointments will be for a term of six (6) years with a review every two (2) years. The Tribal Council may also appoint alternates to serve as needed on the Tribal Court.
3. Judicial Qualifications include:
  - A. Tribal Member
  - B. A minimum age of eighteen (18) years of age
  - C. A Dillingham resident of at least three (3) years
  - D. Must have no criminal / felony history / convictions
  - E. An elder is considered to be sixty-two (62) years of age or older
4. The twelve (12) member Judicial Committee shall have a minimum of three (3) elders.

### **SECTION 5. Judging Panels**

1. A judging panel will consist of a minimum of two (2) and no more than three (3) judges.
2. The judging panels for the Curyung Tribal Court will be selected by lottery.
3. The remaining judges shall serve as alternates in the event that there are not at least three (3) judges who do not have a significant conflict of interest in a particular case.

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## **SECTION 6. Presiding and Sitting Judges**

1. Presiding Judges. The role of the presiding judge shall be to keep an orderly process in the Curyung Tribal Court. The two-three (2-3) judge panel shall decide among themselves who shall be the presiding judge of each specific case.
2. Sitting Judges. The remaining one-two (1-2) judge(s) shall serve as sitting judge(s) for each specific case.

## **SECTION 7. Conflict of Interest**

1. A conflict of interest generally means that a judge is too close to a situation to be objective and fair in making a decision.
2. Judges of the Curyung Tribal Court shall remove themselves from hearing a case involving his or her spouse or significant other, persons living in the same home, children, siblings, parents, in-laws, grandparents, grandchildren, any cases in which they have a strong personal relationship, significant, direct, personal financial, or other interest that would prevent them from being fair.
3. The legal term for judges withdrawing from a case because of conflict of interest or prejudice is recusal. If a judge has a conflict of interest in a case, he or she should recuse from hearing that case.
4. If a judge has a conflict of interest but refuses to withdraw from the case, the other judges should require him or her to withdraw. If a judge insists on hearing cases where he or she has conflicts, the Tribal Council should find a way to remove the judge.

## **SECTION 8. Judicial Decisions and Advisors**

The judges of the Curyung Tribal Court shall reach decisions through consensus. The judging panel may confer with the other judges or other appropriate consultants to reach their decision.

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## **SECTION 9. Tribal Court Clerk**

The Curyung Tribal Council, through the Tribal Administrator, shall appoint and fund the position of the Tribal Court Clerk.

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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code**

### **TITLE I: Tribal Court Operations**

#### **CHAPTER 6**

#### **Tribal Court Procedures**

##### **Section 1. Purpose**

##### **Section 2. Sentences & Options for Orders**

##### **Section 3. Bringing Cases to Tribal Court**

##### **Section 4. Hearing Procedures**

##### **Section 5. Testimony & Evidence**

##### **Section 6. Orders, Request to Change Orders, & Proof of Compliance**

##### **Section 7. Failure to Comply - Contempt of Court**

##### **Section 8. Tribal Court Finances**

#### **SECTION 1. Purpose**

The purpose of this Tribal Court Procedures Ordinance is to provide a fair and equitable process for the operation of the Curyung Tribal Court.

#### **SECTION 2. Sentences and Options for Orders**

The Court may issue individualized Orders concerning child custody arrangements and other Domestic Relations issues. Unless the Curyung Tribal Court sets a specific penalty for a particular offense, the Curyung Tribal Court Judges, either by themselves, or through a sentencing circle format, shall determine the specific Orders for a particular case from the following options:

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- A. Fines:** The fines that the Court may order for violation of a Tribal ordinance shall not exceed \$5,000 or equivalent work sentence. The Court shall order equal fines for equal violations. Fines shall increase for each successive violation of the same ordinance by the same person. The Court may garnish wages, permanent fund or dividend checks, general assistance, or confiscate property in the case of unpaid fines.
- B. Community Work:** The work sentences shall benefit the elders, Tribal members-individually or as a whole, the victim of an offense, or the youth. Tribal Court Judges shall not order work sentences that only benefit themselves personally or other Tribal government officials. Work sentences shall not displace persons employed in the community or employment opportunities. Work sentences shall be completed within thirty (30) days unless otherwise directed by the Court. Persons have the option of work sentences instead of paying a fine only if the Court specifically permits it. Community work shall contribute \$10.00 per hour towards fines ordered by the Curyung Tribal Court.
- C. Traditional Activities:** The Curyung Tribal Court may order a person found in violation of an ordinance to participate in seasonally appropriate traditional activities such as fish camps, trapping, hunting, spirit camps, and other Tribally sponsored or approved traditional activities.
- D. Drug and Alcohol Treatment and Other Counseling:** The Tribal Court has the authority to order an assessment for drug and alcohol treatment and a requirement that the recommendations of the assessment be met, and other personal counseling as a sentence or as part of a sentence. The Tribal Court shall consider the cost to the person and possible waiting periods for getting in to treatment in ordering such treatment.
- E. Restitution:** The Tribal Court has the authority to order the defendant to pay restitution to his or her victims. Such payment shall go through the Curyung Tribal Court Clerk.



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- F. Confiscating Personal Property:** The Tribal Court may seize a person's personal property if that person is found in contempt of Court b the Curyung Tribal Court, for not doing what the Curyung Court has ordered. The property shall remain confiscated and under the care of the satisfaction of the Curyung Tribal Court. If the person does not comply with the Court Order within a reasonable length of time, the Curyung Tribal Court may sell the confiscated property after providing notice of the proposed sale to the person.
- G. Banishment:** An Order of permanent or temporary banishment shall only be used to protect the Tribe and/or Tribal members from harm. Before banishments may be ordered, the personal shall be given a Citation and Notice to Appear in Tribal Court. A hearing shall be held that provides the person an opportunity to speak either in person or telephonically. The Curyung Tribal Court shall notify the surrounding villages when banishment orders are issued by the Court.

### **SECTION 3. Bringing Cases to Tribal Court**

All cases brought before the Curyung Tribal Court shall begin in one of two ways: by filing a Complaint or a Petition to Use the Tribal Court.

**A. Complaints - Violations of Ordinances:** A case involving a violation of Curyung Tribal Ordinances is started by filing a written Complaint with the Tribal Court Clerk. Upon acceptance of the Complaint, a copy of the Complaint shall be given or mailed by the Court Clerk to the person who is being charged with the violation, filed with the Tribal Court. If the Complaint is mailed, it shall be done by certified, return receipt mail and a proof of service file in the case record. The person who is being held responsible for the violation of the ordinance shall be called the Defendant. The complainant shall be referred to as the Plaintiff.

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**B. Petition to Use the Tribal Court - Other Matters:** All cases other than those involving a violation of tribal ordinances shall be started by filing a Petition to Use the Tribal Court by persons who wish to use the Tribal Court for some specific reason. The person filing the Petition shall be called the Petitioner. The Petitioner shall briefly state the reason why he or she wants to use the Tribal Court in these cases. Fees shall be charged equally for similar types of cases. If the Petitioner wants the Tribal Court to resolve a dispute or problem involving some other entity or person, that entity or person shall be called the Respondent. A copy of the Petition shall be given to each Respondent by the Tribal Court Clerk or by some other person designated by the Tribal Court. A proof of service shall be filed with the Court.

**C. Proof of Service:** Written proof that a Defendant or Respondent was given a Complaint or Petition, and a Notice to Appear in Tribal Court is called Proof of Service. Proof that a Defendant or Respondent was given a Complaint or Petition, and a Notice to Appear in Tribal Court shall be made by filing a Statement of Mailing with a return receipt attached, or by Statement of Personal Service. Costs involved in serving these papers shall be paid by a Petitioner in cases beginning with a Petition to use Tribal Court, and by the Complainant in cases beginning with a Complaint.

#### **SECTION 4. Hearing Procedures**

**A. Notice of Hearings:** The Court Clerk, or other person designated by the Tribal Court, shall personally serve or mail Notice to all parties before each hearing. A Proof of Service shall be filed with the Court Clerk. The Notice shall be delivered at least ten (10) days or mailed at least fourteen (14) days before a hearing except as otherwise provided for in this Code. Each party shall be responsible for serving their own witnesses with a Notice of Hearing(s).

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**B. Code of Honor:** All persons testifying in the Curyung Tribal Court are expected to tell the truth. If the Tribal Court has proof that a person violated this trust, the Court may hold the person in Contempt of Court.

**C. Hearings When a Case Involves a Complaint:** In cases where a Complaint has been filed against a Defendant charging that he or she violated a tribal ordinance, a hearing shall be held within sixty (60) days after Notice has been given to the Defendant, unless the Court determines there is good cause to hold the hearing at a later date. At this hearing, the Presiding Judge shall open the hearing and shall read the pleas to the Defendant in Court on the record, and shall make sure the Defendant understands the pleas. If an interpreter is needed to understand the proceedings, it shall be the responsibility of the Complainant to pay for any associated interpreter fees. The Defendant shall state his/her plea for the record. If the Defendant pleads guilty or no contest, the Tribal Court may either sentence the person, or set a date for sentencing. If the Defendant pleads not guilty, the hearing shall be held at this time unless the Tribal Court finds good cause to delay the proceedings. At the hearing, the Plaintiff shall make a statement to the Court, and shall present any other evidence or witnesses to the Court. The Defendant may make a statement to the Tribal Court and may present other witnesses and evidence to the Court. Each party shall be entitled to question the other party's witnesses.

**D. Hearings in Cases Involving a Petition to Use the Tribal Court:** A hearing shall be set by the Tribal Court when a Petitioner requests the Tribal Court to settle a dispute or to perform an undisputed activity such as marriage or uncontested adoption, through filing a Petition to Use the Tribal Court. The hearing shall be held no more than sixty (60) days after the Respondent was served with the petition, unless the Tribal Court determines there is good cause to hold the hearing at a later date. At the hearing, the Petitioner shall make a statement to the Court saying what he/she wants the Court to do. The Petitioner may present witnesses on his/her behalf and may present other evidence to the Court.

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The Respondent may make a statement to the Court saying what he/she wants the Court to do. The Respondent may present witnesses on his/her behalf and may present other evidence to the Court. Each party shall be permitted to question the other party's witnesses and shall be responsible for all expenses of their own witnesses. Tribal Judges may question all witnesses throughout the proceedings.

**E. Hearings Involving Emergency Matters:** Emergencies involve matters where harm or damage to a person or property could occur if the Tribal Court had to wait. In cases of emergencies, the Court may hold a hearing as soon as proof of imminent harm is provided to the Court. Orders issued during emergency hearings shall be written and of limited duration and stand only until a regular hearing is held.

**F. Changing the Time of a Hearing:** If the Tribal Court changes the time of a hearing for any reason, the involved parties shall be given reasonable notice of the change.

**G. Failure to Show For a Hearing:** If a Defendant has been served with a Complaint and has been notified about the hearing, but fails to show up at the hearing without a compelling reason, the Curyung Tribal Court may proceed to hold the hearing and make a decision in the absence of the person, or the Court may set another hearing date.

**H. Recesses:** The Tribal Court may recess and reconvene during the hearing at the Judges discretion.

**I. Records of Hearings:** The Tribal Court shall keep a record of all cases consisting of a tape recording of all hearings, a copy of all documents filed with the Court, and all Orders entered by the Court.

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**J. Decision-Making:** After both sides have presented their cases, the Judges may ask everyone to leave while the Court considers the case and reviews any evidence presented. If the Defendant pleads guilty, no contest, or is found guilty of a violation, the Court may either sentence the person immediately, or set another hearing for a later date to sentence the person. The decision shall be by consensus. The Court shall issue a written Order of its decision.

**K. Sentencing Circles:** Instead of the Judges issuing a sentence, the Tribal Court may choose to design a Sentencing Circle, and send a case to the Circle. The Presiding Officer shall be the peacekeeper of the Circle. If the Circle fails to come up with a consensus plan for a case that has been referred to it, the case shall be sent back to the Tribal Court to render a decision.

**L. Confidentiality:** All cases and hearings shall be confidential. Hearings involving adults may be open to the Tribal membership if the parties and the Court agree. Unless a case is appealed to the Curyung Tribal Appellate Court, only the Tribal Court Judges and the Court Clerk shall have access to the Court records without further Order of the Court. The Curyung Tribal Appellate Court shall have access to all records involving cases that are appealed and which they are considering.

## **SECTION 5. Testimony and Evidence**

**A. Testimony:** Witnesses may testify in person, or with the Court's permission, by telephone. The Curyung Tribal Court will summons witnesses at the request of a participating party to testify at hearings by issuing a Summons to Testify. Any travel or telephone costs associated with the testimony of said witnesses shall be paid by the requesting party.

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**B. Evidence by Subpoena:** The Curyung Tribal Court may Order evidence to be brought before the Court by issuing a subpoena.

**C. Affidavits:** The Curyung Tribal Court may accept sworn, notarized, Affidavits as evidence in cases if the witness(es) are not available to testify.

## **SECTION 6. Orders, Request to Change Orders, & Proof of Compliance**

**A. Written Orders:** All official judgments and determinations made by the Curyung Tribal Court concerning cases shall be written on Order forms unless otherwise specified by ordinance. All Orders shall be filed in the case records. The Court Clerk or other designated person shall personally give or mail a copy of the Order to all parties in a case and file a proof of service.

**B. Time Frame for Complying with Orders:** For cases involving a Complaint, all sentences shall be accomplished within sixty (60) days after the Defendant has been notified of the Order unless the Court provides for otherwise. For cases involving a Petition to use the Tribal Court, the Order shall specify the time frame in which actions shall occur.

**C. Default Orders:** If a party fails to appear at a hearing after being properly notified of the hearing, the Tribal Court may decide the case and issue an Order in his/her absence, after reviewing the Complaint or Petition and hearing from witnesses and/or examining other evidence in the case.

**D. Request to Change an Order:** After an Order has been given, the person(s) receiving the Order may request a change in the Order by filing a Request to Change an Order form with the Court. The request shall state the reason the person believes a change should be made.

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The requesting person shall present new evidence to the Court to support the request. The Court may deny the request, or set a hearing date.

**E. Proof of Compliance With the Order:** Records of proof of compliance with Orders of the Tribal Court shall be kept by the Tribal Court Clerk, or the Court's designee, in the Court files. If a party is ordered to do something, proof that the action has been taken shall be supplied to the Court Clerk and certified by the Clerk within fourteen (14) days of completion of the act unless otherwise specified by the Court Order. Payment of a fine to the Tribal Court Clerk and a recording of the payment shall be proof in itself of payment.

Restitution Ordered to another party shall be made through the Clerk of the Tribal Court and proof that the restitution has been completed shall be certified by the Clerk within fourteen (14) days of completion of restitution. The Court Clerk shall report any failures to comply with Tribal Court Order to the Court. Failure to comply with an Order of the Court shall be considered contempt of Court as described in Section 7 of this chapter.

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## **SECTION 7. Failure to Comply with an Order - Contempt of Court**

Persons who fail to fully comply with an Order of the Curyung Tribal Court, or who fail to pay a fine or otherwise carry out or comply with a sentence imposed on them by the Tribal Court shall be guilty of contempt of Court. Penalty for contempt of Court shall be left up to the discretion of the Tribal Judges serving on the panel.

## **SECTION 8. Tribal Court Finances**

**A. Bank Account:** The Curyung Tribal Council shall establish a separate bank account for the Curyung Tribal Court.

**B. Court Costs:** The Curyung Tribal Court may charge fees to use the Tribal Court. Such fees shall be equal for equal types of cases, and shall be made known to the Petitioner before disputes and other matters be heard.

**C. Payment of Fines or Fees:** Fines or fees shall be paid in case, or by check or money order. Checks or money orders shall be made out to the Curyung Tribal Court. Payments of fines and/or fees shall be deposited into the Curyung Tribal Court bank account and used solely for the Court's operations.



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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code**

### **TITLE I: Tribal Court Operations**

#### **CHAPTER 7**

### **Curyung Tribal Court of Appeals**

#### **Section 1. Purpose**

#### **Section 2. Structure**

#### **Section 3. Clerk of the Curyung Tribal Court of Appeals**

#### **Section 4. Beginning an Appeal**

#### **Section 5. Appeal**

#### **Section 6. Appellate Court Procedures**

#### **SECTION 1. Purpose**

The Curyung Tribal Court of Appeals is hereby established to assure a fair judicial process within the Curyung Tribal Government system. The purpose of the Curyung Tribal Court of Appeals is to not re-hear cases, but to review cases that are appealed for possible inconsistent application of tribal law and/or violations of fundamental fairness. The Curyung tribal Court of Appeals shall only take a case after reviewing records on the case from the Curyung Tribal Court, reviewing the "Appeal", and making a preliminary determination that there is sufficient evidence that there may have been an inconsistent application of tribal law or a violation of fundamental fairness.

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## **SECTION 2. Structure**

**A.** All seven (7) members of the Curyung Tribal Council shall serve as the Curyung Tribal Court of Appeals. If a Tribal Council member is a Party, or has a conflict of interest as described in Title I, Chapter 5, they shall disclose the conflict of interest prior to reviewing the matter. Upon determination of a conflict of interest, the Council member(s) must remove themselves from discussing the matter entirely. The remaining Council members shall serve as the Curyung Tribal Court of Appeals.

**B.** The Curyung Council Chief shall serve as the Presiding Officer of the Curyung Tribal Court of Appeals. The 2nd Chief shall serve as the alternate Presiding Officer. In the event that both Council Chief and 2nd Chief have a conflict of interest, the remaining Council members shall decide among themselves who shall serve as the Presiding Officer.

**C.** The role of the Presiding Officer in the Court of Appeals shall be to ensure an orderly process throughout the duration of the Appeals case.

## **SECTION 3. Clerk of Curyung Tribal Court of Appeals**

The Clerk of the Curyung Tribal Court of Appeals shall be the same person as the Curyung Tribal Court Clerk, or the Tribal Council's appointed designee.

## **SECTION 4. Beginning an Appeal**

Filing an Appeal: Persons who wish to appeal a case may file an Appeal with the Clerk of the Curyung Tribal Court within thirty (30) days after receiving an official Order from the Tribal Court. Appeals filed after thirty (30) days from the receipt of an Order shall not be considered under any circumstances. A person who is appealing a case shall be called the Appellant. The opposing party shall be notified and given the right to respond to the request for appeal within fifteen (15) days of receipt of the Appeal.

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## SECTION 5. Appeal

The Appeal shall state the name and address of the person who is appealing the case, the name of the case, and the Tribal Court case number. A copy of the written Order the Appellant is appealing shall be attached to the Appeal. The Appeal shall contain a statement of why the Appellant believes that the case deserves a hearing of the Curyung Tribal Court of Appeals.

## SECTION 6. Appellant Court Procedures

**A. Beginning a Case:** The Court Clerk shall notify the Curyung Tribal Council that a Appeal has been filed. The Court Clerk shall make copies of the Tribal Court records of the case and the Appeal for the Court of Appeals. The Court of Appeals shall review these materials during the next regularly scheduled monthly meeting to determine if there is sufficient evidence that tribal law may have been inconsistently applied and/or there may have been a violation of fundamental fairness. If the Court of Appeals decides that there is not sufficient evidence, the decision of the Curyung Tribal Court will be upheld, and no Appeals hearing will be scheduled.

**B. Setting a Hearing Date:** Once the Court of Appeals has completed a review of the case records and decided that it will hear a case, the Appeals Court shall set a hearing date and shall give all parties to the case a Notice of Hearing. The notice shall be personally delivered at least ten (10) days or mailed at least fourteen (14) days prior to a hearing, and proof of service filed in the case records. At the hearing, all parties may discuss the issues written in the Appeal applying tribal law, or a mistake concerning fundamental fairness. The parties may not present new evidence during the Appeal, but must outline why the case deserves to be overturned.

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**C. Decisions of the Appellate Court:** After the Court of Appeals hears a case, the Presiding Officer or Court Clerk shall fill out the “Decision of Appeal” that shall be filed with the Appeals Court and with the Tribal Court. The Court Clerk shall see that all parties in a case receive a copy of the “Decision of Appeal”, and file a proof service in the case records.

**D. Actions of the Appellate Court:** Upon concluding a hearing or hearings of a case, the Appellate Court shall take only one of the following actions:

1. Uphold the procedures and decision of the Curyung Tribal Court.
2. Order the Tribal Court to re-hear the case in a way that is consistent with specific instructions written in the “Decision of Appeal”.
3. Dismiss the case in the most serious of circumstances.

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# CURYUNG TRIBAL COUNCIL

## Judicial Code

### TITLE I: Tribal Court Operations

#### CHAPTER 8

#### Cooperative Agreements

##### **Section 1. Intertribal, State, Federal & Private Party Agreements**

Upon approval from the Curyung Tribal Council, the Curyung Tribal Court shall have the power, not inconsistent with the Curyung Tribal Constitution or existing ordinances, to enter into cooperative agreements for the benefit of Curyung Tribal members with other Tribes, the State of Alaska or other states, the U.S. Federal Government, non-profit agencies, or with private parties or individuals.

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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code TITLE II: Family Law**

### **CHAPTER 1 General Provisions**

#### **Section 1. Purpose**

#### **Section 2. Authority and Jurisdiction**

#### **Section 3. Best Interest of the Children**

#### **SECTION 1. Purpose**

The purpose of this Title is to allow the Curyung Tribe to take an active role in providing for the health, safety, and welfare of its enrolled members, to preserve and strengthen family ties whenever possible, including improvement of home and environment, to protect and preserve Tribal heritage and cultural identity of persons within the Tribe's jurisdiction, and to ensure that other Courts and agencies will fully cooperate with the Tribe in fulfilling the purposes of this Title.

The intention of this Title is to promote the health, safety, and welfare of the most valuable resource of the Curyung Tribe, its people. The welfare of children is of the foremost importance. Children must receive the care and guidance necessary to allow them to become healthy, content, and productive members of the Curyung Tribe and society in general.

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## **SECTION 2. Authority and Jurisdiction**

The Curyung Tribal Council regulates domestic relation matters under authority of its inherent sovereign powers, under powers delegated by Congress, and under the Constitution of the Curyung Tribe. The Curyung Tribal Court shall have the authority to hear and decide all matters in this Title where parties in a case are members or are eligible for membership in the Curyung Tribe, or in cases where parties voluntarily cease jurisdiction to the Curyung Tribal Court.

### **Jurisdiction: Children's Matters**

- A.** Once the Curyung Tribal Court exercises its authority in any child's case under this Title, the Curyung Tribal Court gains exclusive authority over all stages of the case as a matter of Tribal law until the case is dismissed or concluded, or until the Tribal Court gives authority to another government or another Court by order of the Tribal Court.
  
- B.** The Curyung Tribal Court shall have the authority to make decisions about child custody, adoption, and child protection if the children are members or are eligible for membership in the Curyung tribe. The Tribal Court shall also have the authority to take temporary protective custody over all children, regardless of Tribal membership, within the village, until the matter can be transferred to the child's Tribe or to another Court's jurisdiction.
  
- C.** If the child is a member of or eligible for membership in more than one Tribe, the Curyung Tribe shall have the most significant contacts with the child in order to make decisions other than in emergencies.
  
- D.** The Curyung Tribal Court has the authority to hear and decide children's cases involving Tribal members or children eligible for Tribal membership even if the children do not live within the Village.

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### **SECTION 3. Best Interest of the Children**

In all cases involving children, the Curyung Tribal Court shall hear all the facts and evidence brought before it and shall consider the rights of all parties in the case, however, those of the child shall be most important. The best interest of the child shall be more important than the rights of any other person or entity.

In cases involving minor children, the Curyung Tribal Court shall consider the best interest of the child in all Court decisions. In determining what is in the best interest of the child, the Court shall consider the following factors:

1. The child's wishes if he/she is old enough and understands what the proceedings mean; and
2. The love and affection existing between the involved adults and the child; and
3. The needs of the child, including educational needs, physical and medical needs, emotional needs, mental needs, religious needs, cultural needs, and any other special needs of the child; and
4. The stability of the home environment likely to be offered by the involved adults; and
5. Whether the involved adults are likely to encourage a loving relationship between the child and the other persons with whom the child has emotional ties; and
6. Any evidence of violence determined by a criminal background check and/or by testimony of reliable sources, domestic violence, child abuse, or child neglect in the involved adult's household(s); and



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7. Any evidence of substance abuse by the involved adults or someone living with them that would or does directly affect the emotional or physical wellbeing of the child; and
  8. The locations of persons to whom the child has emotional ties, whether the child is enrolled in school near one of those persons and desirability of the child remaining at the school; and
  9. The advantages of keeping the child in the community where the child resides; and
  10. Any other factors the Tribal Court feels are relevant to the best interest of the child.

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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code TITLE II: Family Law**

### **CHAPTER 2 Child Protection**

**Section 1. Child Protection Confidentiality**

**Section 2. Status as Ward of Curyung Tribal Court**

**Section 3. Urgency**

**Section 4. Rights and Best Interest of the Child**

**Section 5. Starting a Child Protection Case**

**Section 6. Contents of Child Protection Petition**

**Section 7. Emergency Custody**

**Section 8. Temporary Custody Hearing after Emergency Custody Has Been Taken**

**Section 9. Temporary Custody Hearing in Non-Emergency Situations**

**Section 10. Foster Home Placement Preferences**

**Section 11. Review Hearings**

**Section 12. Interference with a Custody Order**

#### **SECTION 1. Child Protection Confidentiality**

Child protection cases involve “children in need of aid” as defined in Chapter 1, Section 4 of Title 2: Family Law. All child protection cases shall be considered and treated as confidential. All Tribal officials involved in children’s cases shall be sworn to confidentially under the oath of confidentiality provided in Title I, Chapter 3, Section 3 of this code. Court records in child protection cases shall

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not be released to anyone besides the parties to the case without the consent of the Curyung Tribal Court.

## **SECTION 2. Status as Ward of Curyung Tribal Court**

Upon hearing and determination that a child is a “child in need of aid” by the Curyung Tribal Court based on the filing of a Petition and procedures under this code for child protection, or, the transferring of a child protection case to the Curyung Tribal Court, a child becomes the ward of the Curyung Tribal Court and remains so until the Court dismisses the case.

## **SECTION 3. Urgency**

All child protection cases shall be considered urgent and shall be placed ahead of all other cases that the Curyung Tribal Court may have before it.

## **SECTION 4. Rights and Best Interest of the Child**

In all child protection cases, the Court shall hear all of the facts and evidence brought before it and shall consider the rights of all parties in the case when deciding what is in the child’ sets interest. The best interest of the child as defined in Chapter 1, Section 3, of this Title shall be placed above the rights of any other person or entity.

## **SECTION 5. Starting a Child Protection Case**

A child protection case may be brought in front of the Curyung Tribal Court by any person who has probable cause to believe that a minor Tribal member or child living in the Village is a “child in need of aid.” A child protection case shall be started by filing a “Petition to use the Tribal Court” form. The Tribal Court may designate a person to investigate the issues stated in the petition.

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## **SECTION 6. Contents of Child Protection Petition**

The petition for child protection cases shall provide the following information, provided that such information is available to the Petitioner:

1. The name, address, and age of the child; and
2. The name(s) and address(es) of the child's parents and any custodians of the child; and
3. The name(s) and address(es) of any other person or Tribe with an interest in the child; and
4. The nature and extent of the child's injury, abuse or neglect; and
5. Any available written evidence of injuries, abuse or neglect (doctor report, public health nurse report, health aid report, teacher's report, report of witness to injury, abuse of neglect, etc.)
6. Any information that may be helpful in identifying the cause of the child's injuries or neglect.
7. A statement of which Tribe(s) the child is a member or with which Tribe(s) the child is eligible for membership. This statement should include facts that indicate that the Curyung Tribe is the Tribe with the most significant contacts with the child.

## **SECTION 7. Emergency Custody**

After receiving a Petition, the Curyung Tribal Court may take a child into custody and make a temporary placement without notification and formal hearing if the Tribal Court finds that removal is necessary to prevent imminent physical damage or harm to the child. The Tribal Court shall issue an emergency order describing the Court's action and the date and time of a temporary custody sharing. As soon as possible, the Tribal Court shall serve the parent(s) or guardian(s) with a copy of the order. If the child is not a Tribal member or eligible for Tribal membership, the Tribal Court may notify the child's Tribe or the appropriate State officials. Emergency custody arrangements shall be for no more than thirty (30) days.

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## **SECTION 8. Temporary Custody Hearing After Emergency Custody Has Been Taken**

- A. Notification and hearing within thirty (30) days:** After the Tribal Court has taken a child into Tribal custody under emergency circumstances, the Tribal Court shall hold a temporary custody hearing within thirty (30) days. The Tribal Court shall issue a “Notice to Appear in Tribal Court” to the parent(s), custodian(s), and/or guardian(s) of the child, within a reasonable length of time before the hearing.
- B. Witnesses:** At the temporary custody hearing, the parent(s), custodian(s), and/or guardian(s) shall have the right to call their own witnesses and to question witnesses called by any other party. Judges may question all witnesses at their discretion.
- C. Decision of the Court:** After determining jurisdiction, reviewing the petition, and hearing the case, the Tribal Court shall issue an order based on the child’s best interest. The Tribal Court may decide to:
1. Continue to have legal custody of the child for a period not to exceed one (1) year if the Tribal Court makes a determination that the child is a “child in need of aid”. The Tribal Court may keep legal custody of the child, and place physical custody of the child with the parent(s), custodian(s), or guardian(s) with specific directives, or, place the child in an appropriate foster placement based on an application of Section 10 of Chapter 2 of this Judicial Code. Specific directives may include but are not limited to directing that the child, parent(s), custodian(s), or guardian(s) take educational classes, alcohol and/or drug assessments, and follow the recommendations of the assessments, psychological or psychiatric assessments and treatment, or such other treatment or programs as it feels are appropriate and are likely to result in the best interest of the child and reunification of the child with the family.
  2. The Tribal Court may designate specific persons or entities to oversee the execution of the Curyung Tribal Court order and monitor the family’s progress and report such progress to the Court.

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3. Return legal custody of the child to the parent(s), custodian(s), and/or guardian(s) and dismiss the case.

## **SECTION 9. Temporary Custody Hearing in Non-Emergency Situations**

When the Curyung Tribal Court receives a petition to take a child into Tribal custody in non-emergency circumstances and determines that the Tribal Court has jurisdiction and chooses to hear the case, the Tribal Court shall hold a temporary custody hearing within thirty (30) days to determine whether to take a child into Tribal custody. A “Notice to Appear in Tribal Court” shall be issued to the parent(s), custodian(s), and/or guardian(s) of the child, within a reasonable length of time before the hearing. The Tribal Court shall follow the same procedures and have the same options as it has for temporary custody hearings in emergency cases.

## **SECTION 10. Foster Home Placement Preferences**

The following placement preferences shall be applied in all cases where a child is placed in foster care unless the Tribal Court finds that it would be in the child’s best interest to vary the order of preferences or place the child not according to the preferences:

1. A member of the child’s extended family who resides closer to, or, in the city or village in which the child resides.
2. A member of the child’s extended family who resides elsewhere.
3. A member of the Curyung Tribe.
4. A foster home, licensed, approved, or specified by the Curyung Tribe.
5. A member of another Tribe with whom the child is culturally related.
6. Or, in another Tribally approved home.

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## **SECTION 11. Review Hearing**

While the child is in the legal custody of the Curyung Tribal Court, any party or the Tribal Court may request in writing that a review hearing be held. The request must show some reason why the Tribal Court should hold a hearing and the Tribal Court may grant or deny the request.

The purpose of the review hearing is to determine whether the child should continue to remain a ward of the Tribal Court, or if any conditions of the legal custody should be modified or added. A review hearing shall be held before the Tribe's custody expires according to the order. After making a decision based upon the child's best interests, the Tribal Court shall state its decision in a new order.

## **SECTION 12. Interference with a Custody Order**

Anyone who interferes with a Tribal Court ordered placement of a child shall be guilty of harassment and subject to an appropriate penalty by the Curyung Tribal Court.

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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code TITLE II: Family Law**

### **CHAPTER 3 Child Custody Involving Disputes**

#### **Section 1. Beginning a Child Custody Case**

#### **Section 2. Contents of Child Custody Petition**

#### **Section 3. Temporary Custody Hearing and Order**

#### **Section 4. Custody Hearing**

#### **Section 5. Custody Order**

#### **Section 6. Change of Custody Order**

#### **SECTION 1. Beginning a Child Custody Case**

If there is a dispute between parent(s) and /or custodian(s) over custody of a child, the matter may be brought in before the Curyung Tribal Court. A child custody case shall be started by filing a "Petition to use the Tribal Court".



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## **SECTION 2. Contents of Child Custody Petition**

The child custody petition shall provide the following information:

1. The name(s), address(es), and age of the child; and
2. The name(s), and addresses of chetah child's parents and any custodians of the child; and
3. The name(s) and address(es) of any other persons or Tribe with a specific interest in the child; and
4. The reason the petitioner is requesting custody of the child; and
5. The facts that make the petitioner believe that the best interest of the child require that a custody order be issued by the Tribal Court; and
6. A statement of which Tribe(s) the child is a member or with which Tribe(s) the child is eligible for membership. This statement should include facts that indicate that the Curyung Tribe is the Tribe with the most significant contacts with the child.

## **SECTION 3. Temporary Custody Hearing and Order**

- A. Temporary Custody Hearing:** After the Tribal Court determines that it has jurisdiction to hear and decide a case, the Court may hold a temporary custody hearing in cases where it will take considerable time to hold a custody hearing. Before holding the temporary custody hearing, the Tribal Court shall issue a "Notice to Appear in Tribal Court" to the parent(s), custodian(s) and/or guardian(s) of the child, no later than fourteen (14) days before the scheduled hearing.
- B. Temporary Custody Order:** At the temporary custody hearing, all parties shall have an opportunity to present evidence and question witnesses. After the hearing is completed, the Tribal Court may issue a temporary custody Order giving a particular person or persons temporary physical custody of the child until a custody hearing is held.
- C. Equal Access When not Harmful to Child:** Unless it is shown to be harmful to the child, the child shall have reasonable equal access to both parents and/or custodians during the duration of the temporary custody Order. The

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temporary custody Order may also set out a reasonable visitation schedule for a person or persons.

- D. Monitoring and Investigating:** The temporary custody Order may be monitored as directed by the Tribal Court. The Court may also direct a designated person to investigate the facts contained in a Petition, or for any other purpose required by this code.

#### **SECTION 4. Custody Hearing**

- A. Custody Hearing within thirty (30) days:** After a temporary custody Order is issued by the Court, it shall set a custody hearing within thirty (30) days of the temporary custody hearing.
- B. Purpose of the Custody Hearing:** The purpose of the custody hearing is to make a decision about who should have custody of the child, and what visitation, if any, should be awarded for those persons who do not have custody.
- C. Witnesses:** At the hearing, all parties shall have the opportunity to present evidence and question witnesses.
- D. Deciding Custody and Visitation:** After the hearing is completed, the Tribal Court shall make a decision as to who shall have custody and what, if any, visitation should be awarded. In making this decision, the Tribal Court shall consider all factors defining the best interest of the child. The best interests of the child shall be considered above all else.

#### **SECTION 5. Custody Order**

- A. After the custody hearing, the Tribal Court may Order either;**
1. A party or parties be given legal and physical custody of a child; or
  2. That a party not given physical custody be given specified visitation with the child; or
  3. That a party not be given custody of a child.

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**B.** The Tribal Court may also Order a parent to pay child support to the child's custodian, and may take into account the parent's ability to contribute in cash or in goods, and also the child's needs.

## **SECTION 6. Change of Custody Order**

Any person may request that an award of custody of a child or visitation with a child be modified by filing a Petition to use the Tribal Court form. It is up to the discretion of the Tribal Court to hold a hearing to consider the request in the Petition. If the court decides to hold a hearing based on the Petition, reasonable notice shall be provided to all parties, and any new decisions of the Tribal Court shall be made through a new Custody Order.

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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code TITLE II: Family Law**

### **CHAPTER 4 Termination of Parental Rights**

**Section 1. Cases Where Parental Rights May Be Terminated**

**Section 2. Necessary Findings to Terminate Parental Rights**

**Section 3. Involuntary Termination of Parental Rights**

**Section 4. Voluntary Consent to Terminate Parental Rights**

**Section 5. Withdrawal of Voluntary Consent**

**Section 6. Tribal Membership Status**

#### **SECTION 1. Cases Where Parental Rights May Be Terminated**

Tribal Family Court's main concern is to maintain the family unit whenever possible. Termination of parental rights is the last resort when all efforts to maintain the family have failed. Parental rights may be terminated in whole or in part i any case involving custody of a child, child protection, where a parent voluntarily consents to relinquish their parental rights, or in the case of an adoption.

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## **SECTION 2. Necessary Findings to Terminate Parental Rights**

The Tribal Court may terminate parental rights to a child only if it finds that:

1. If the parental rights are not terminated, the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child; or
2. The child has been subjected by his / her parents to sexual abuse; or
3. The child has been abandoned; or
4. Where a parent voluntarily consents to the relinquishment of parental rights.

## **SECTION 3. Involuntary Termination of Parental Rights**

Persons or entities may file a "Petition to Use the Tribal Court" form requesting that parental rights of a person be terminated. The petition shall contain the following:

1. The name, address, and age of the child(ren); and
2. The nam(s) and address(es) of the parent(s), custodian(s) and / or guardian(s) of the child; and
3. The name(s) and address(es) of any other person with an interest in the child; and
4. The name and address of any other Tribe that may have an interest in the child; and
5. The reason why the petitioner believes that parental rights should be terminated; and
6. Any available evidence to support termination of parental rights.

If after reviewing the petition, scheduling and holding a hearing, the Tribal Court finds that the conditions necessary to terminate parental rights exist, it shall issue an order terminating parental rights in whole or in part, depending on what is in the best interest of the child(ren).

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If those conditions exist, the Tribal Court must find, beyond a certainty, that it is in the best interest of the child(ren) to do so. If the Tribal Court finds that the conditions necessary to terminate parental rights do not exist, it shall dismiss the case.

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## **SECTION 4. Voluntary Consent to Terminate Parental Rights**

Any parent may voluntarily consent to the termination of his/her parental rights to any minor child. However, no voluntary consent will be valid unless:

1. It is given in the presence of the Tribal Court or to a designated representative of the Tribal Court; and
2. The person or Court that the consent is given in front of signs a sworn statement that the consenting parent understood what they were doing and knowingly and voluntarily relinquished their parental rights; and
3. The person is informed that they have the right to be provided with an interpreter to explain the voluntary consent, its consequences, and their right to withdraw the voluntary consent, the time limit to do so, and the procedure for doing so.

## **SECTION 5. Withdrawal of Voluntary Consent**

A voluntary consent to the termination of parental rights may be withdrawn anytime within ten (10) days of giving voluntary consent. After ten (10) days, withdrawal may only be done with the Tribal Court's permission. The Tribal Court shall give permission only if it finds that it is in the best interest of the child(ren) to do so.

## **SECTION 6. Effect of Termination of Parental Rights**

If a parent's rights are terminated, they no longer have any right to the child or any responsibility for that child and parental rights are completely severed, unless otherwise provided by Tribal Court order. If the Tribal Court provides for anything less than completely terminated parental rights, the Court shall be very specific. For example, the Court may specifically allow parental participation in specific Tribal ceremonies in relation to the child.

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## **SECTION 7. Tribal Membership Status**

Termination of parental rights shall not effect the minor's Tribal membership status, nor the child's rights or privileges as an Alaskan Native whether written or unwritten, nor shall it effect the jurisdiction of the Curyung Tribal Court over the child(ren).



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# CURYUNG TRIBAL COUNCIL

## Judicial Code TITLE II: Family Law

### CHAPTER 5 Tribal Adoptions

#### Section 1. Beginning a Case

#### Section 2. Contents of Adoption Petition

#### Section 3. Homestudy

#### Section 4. Adoption Hearing and Adoption Order

#### Section 5. Visitation

#### Section 6. Effect of Adoption Order

### SECTION 1. Beginning a Case

Any person who desires to adopt a child may request that the Curyung Tribal Court consider the matter by filing a "Petition to Use the Tribal Court". The Tribal Court shall consider what is in the best interest of the child in all cases, and at its discretion, shall approve adoptions to appropriate parents.

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## **SECTION 2. Contents of Adoption Petition**

The “Petition to Use the Tribal Court” shall provide the following information:

1. The name(s), address(es), and age(s) of the child(ren) to be adopted; and
2. The name(s), and address(es), if known, of the child(ren)’s biological parents and any custodians of the child(ren); and
3. The name(s) and address(es) of any other person or Tribe with an interest in the adoption proceeding or in the child(ren) to be adopted; and
4. Whether the petitioner has reason to believe that the biological parents of the child(ren) to be adopted oppose the adoption; and
5. If the child(ren) to be adopted is a minor child, facts which make the petitioner believe that the best interest of the child to be adopted require that an adoption order be issued by the Tribal Court; and
6. A statement of which Tribe(s) the child(ren) to be adopted is a member or which Tribe(s) the child(ren) to be adopted is eligible for membership. If the child(ren) to be adopted is a minor child, this statement should include facts that indicate that the Curyung Tribe is the Tribe with the most significant contacts with the child; and
7. The name the petitioner(s) intends to give the child after adoption; and
8. Whether the child has any property and if so, what that property is; and
9. Any relationship between the petitioner(s) and the child; and
10. Where the petitioner(s) was born and their present age and occupation.

## **SECTION 3. Home Study**

The Tribal Court shall order a home study be completed for the proposed adoptive parent(s). The petitioner(s) shall be required to pay costs involved in a home study, if any. The home study shall include an evaluation of the home for all of the factors for determining the best interest of the child and anything else the Tribal Court requires.

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## **SECTION 4. Adoption Hearing and Adoption Order**

The Tribal Court shall set a hearing date within a reasonable length of time after a petition is filed. After reasonable notification and hearing according to procedures set forth in Title I, Chapter 5 of this Code, the Court may issue an adoption order. The Tribal Court shall award the adoption order if it finds for the following items:

1. The biological parent(s) have consented to the adoption or have had their parental rights terminated in Tribal Court or the Court of any other jurisdiction or are unavailable to consent to the adoption; and
2. If the child(ren) to be adopted are over the age of fourteen (14) years, and he/she consents to the adoption; and
3. If the child(ren) to be adopted is a minor, the Tribal Court finds that it is in the child(ren)'s best interest as defined in Chapter 1, Section 3 of Title II of this Code, to be adopted by the petitioner(s).

## **SECTION 5. Visitation**

The Tribal Court may require that persons with whom the child has emotional or blood ties shall have visitation with the child. Specific information concerning such visitation shall be incorporated into the adoption order.

## **SECTION 6. Effect of Adoption Order**

The Curyung Tribal Court adoption order creates the relationship of parent and child between the petitioner(s) and adopted child(ren).

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# CURYUNG TRIBAL COUNCIL

## Judicial Code TITLE II: Family Law

### CHAPTER 6 Tribal Marriages

#### Section 1. Tribal Policy

#### Section 2. Procedure for Tribal Marriages

##### SECTION 1. Tribal Policy

It shall be the policy of the Curyung Tribe to uphold the validity of marriages whenever possible. The Tribal Court shall recognize the validity of any marriage performed under the law of the jurisdiction where it was performed.

##### SECTION 2. Procedure for Tribal Marriages

Persons wishing to be married by the Curyung Tribal Court shall file a "Petition to Use the Tribal Court" form. Marriages performed by the Curyung Tribal Court are subject to the following requirements:

1. Both parties must be at least eighteen (18) years of age, or provide evidence of written consent by their parents or legal guardians. If there are two parents or legal guardians, both must consent if their child is under eighteen (18) years old.
2. A non-refundable filing fee of \$50 shall be paid to the Tribal Court. The Tribal Court, at its discretion, may waive the fee.
3. Both parties must swear that they are not currently married

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4. Marriages conducted by the Curyung Tribal Court are a privilege and not a right. The Tribal Court shall have discretion to decline to perform a marriage for any reason.
  5. Following the marriage, the Tribal Court shall issue a marriage certificate.

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# CURYUNG TRIBAL COUNCIL

## Judicial Code TITLE II: Family Law

### CHAPTER 7 Divorces and Annulments

#### Section 1. Divorces

#### Section 2. Annulments

#### SECTION 1. Divorces

Divorce proceedings shall begin with a filing of a “Petition to Use the Tribal Court” form. The Court may hear the case or dismiss a petition where it finds that it lacks necessary personal or subject matter jurisdiction, or where it finds that the action is otherwise inconsistent with the Curyung Tribal law. The Court shall have the option to issue any order that it finds appropriate, including, but not limited to the following:

1. Where the Tribal Court finds that it has jurisdiction to dissolve a marriage, but lacks jurisdiction to adjudicate property rights, it may issue such an order and proceed accordingly.
2. Where the Tribal Court finds that as a matter of comity to another jurisdiction, it should refrain from ruling on all or a part of the requested relief in a petition for divorce, it may issue an order setting forth its decision, and proceed accordingly.

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## **SECTION 2. Annulments**

Persons wishing to have a marriage annulled may bring the matter before the Tribal Court by filing a “Petition to Use the Tribal Court” form. The Tribal Court may annul a marriage where the Tribal Court finds any of the following grounds:

1. The marriage was the result of fraud or duress; or
2. One of the parties was of unsound mind at the time of the marriage; or
3. There was failure to consummate the marriage; or
4. The marriage violated any applicable written law or any unwritten custom law of the Curyung Tribe.

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# CURYUNG TRIBAL COUNCIL

## Judicial Code TITLE II: Family Law

### CHAPTER 8 Name Changes

#### **Section 1. Order of Name Change**

The Curyung Tribal Court shall have the authority to issue an order changing the legal name of a party or the child of a party. Persons wishing a name change shall begin the proceeding by filing a "Petition to Use the Tribal Court" form. It is up to the discretion of the Tribal Court to proceed with the name change or not. The Court shall charge a fee to the petitioner for use of the Tribal Court for name change purposes, and for costs associated with filing the name change with the Alaska Division of Vital Statistics.



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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code TITLE II: Family Law**

### **CHAPTER 9 Protection for Elders/Vulnerable Adults**

**Section 1. Policy, Purpose, and Enforcement**

**Section 2. Application of this Ordinance**

**Section 3. Definitions**

**Section 4. Duty to Report Abuse of an Elder**

**Section 5. Immunity for Reporting and Confidentiality**

**Section 6. Failure to Report, Bad Faith Reports, and Penalty for Retaliation**

**Section 7. Procedures for Petition, Investigation, Notice, and Hearing**

**Section 8. Elder Protective Services and Placements**

**Section 9. Emergencies**

**Section 10. Rights of Elders, their Families, and Caretakers**

#### **SECTION 1. Policy, Purpose, and Enforcement**

POLICY: It is the traditional way of the Curyung Tribe to honor and respect Tribal Elders. The Elders of the Curyung Tribe are valuable resources as they are our custodians of Tribal history, culture, and tradition. Thus, it is in the best interest of and serves the welfare of the Curyung Tribe to protect Tribal Elders. It is also in the best interest of the Tribe to protect vulnerable Tribal members.

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PURPOSE: The purpose of this Chapter is to protect Elders and vulnerable adults within the jurisdiction of the Curyung Tribe from abuse as defined in the definition section of this Ordinance. This Chapter shall be liberally interpreted in order to achieve its purpose. This Chapter provides for, but is not limited to, the following:

1. Reporting abuse or neglect to the Tribal Court;
2. Receiving reports of an investigating suspected abuse or neglect;
3. Delivering Elder protection services and protection services to any other vulnerable adults.

ENFORCEMENT: The Curyung Tribal Court shall be the primary enforcer of this Chapter, provided that the Curyung Tribal Court may enter into agreements with other Courts of competent jurisdiction for enforcement when circumstances warrant such cooperation.

## **SECTION 2. Application of This Order**

This Chapter is civil in nature. The Chapter applies to Tribal Elders and to any adult Tribal member of the Curyung Tribe should circumstances as defined by this Chapter warrant. Any section or portion thereof containing the word “Elder” shall be liberally construed to include and mean or other “vulnerable adult”, as defined in the definition section of this Ordinance.

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### **SECTION 3. Duty to Report Abuse of an Elder**

Failure to report cases of suspected abuse or neglect of an Elder or vulnerable adult is a violation against the Curyung Tribe and subject to fine under Section 8 of this Chapter. The following people are required to report cases of suspected abuse or neglect of an Elder to the Curyung Tribal Court:

1. The Elder's family or caretaker;
2. The Tribal Administrator, T.C.S.W., Tribal Employee, or Representative;
3. Public Safety Officer or State Trooper;
4. Any Tribal elected official;
5. Any employee of a tribally-owned business, even if not managed by the Tribe;
6. Community Health Representative;
7. Any medical doctor or dentist, nurse, physician's assistant, human services worker, or Elder service provider;
8. Any person, agency, or employee of such agency with a fiduciary duty to the Elder such as a lawyer, accountant, financial institution, property manager, or conservator;
9. Any person who has good reason to suspect that na Elder has been or is being abused or neglected.

### **SECTION 4. Immunity for Reporting and Confidentiality**

A person who in good faith reports suspected abuse or neglect of an Elder is immune from any civil or criminal suit based on that person's report. The name of a reporter who reports abuse as required by this Chapter is confidential and shall not be released to any person unless the reporter consents to the release because it would be necessary to protect the Elder. No evidentiary privilege except for the attorney-client privilege may be raised as a justifiable defense or reason for failing to report suspected Elder abuse or for testifying as required by this Chapter.

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## **SECTION 5. Failure to Report, Bad Faith Reports, & Penalty for Retaliation**

Any person who is required by this Chapter to report suspected Elder abuse and fails to do so is subject to a fine of up to \$500 if found negligent by the Curyung Tribal Court. Any person who makes a report of suspected Elder abuse knowing it to be false is subject to a fine of up to \$500 if found negligent by the Curyung Tribal Court. If a person retaliates for the reporting of a suspected case of Elder abuse, the Tribal Court may utilize the full range of sentencing options at its discretion.

## **SECTION 6. Procedures for Petition, Investigation, and Notice of Hearing**

The Curyung Tribal Court shall determine whether Elder abuse has occurred. The determination shall be made only after a petition of suspected abuse has been filed, an investigation takes place, notice of hearing is given to all parties, a Curyung Tribal Court hearing is held, and the Tribal Court finds proof that is clear and convincing. However, the Tribal Court may act in emergency situations to protect the Elder without a petition, investigation, notice, and hearing when it receives clear and convincing evidence that an elder is in immediate danger either in writing or orally.

PETITION: The Curyung Tribal Court shall receive reports of Elder abuse by filing a petition and shall assign investigators to work with the reporter within 24 hours. Reporters shall file a petition to the Curyung Tribal Court containing the following information:

1. The name of the reporter; and
2. The name and location of the Elder; and
3. The suspected conditions of abuse; and
4. Any other facts the petitioner believes will assist the Tribal Court.

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INVESTIGATION: Investigators, who are appointed by the Curyung Tribal Court, shall gather information and file a report with the Tribal Court containing the following information:

1. The Elder's name, address or location, and telephone number; and
2. The name, address or location, telephone number of the person(s) who is suspected of abusing the Elder; and
3. The nature and degree of incapacity of the Elder; and
4. The name, address or location, telephone number of any witnesses; and
5. The name, address or location, telephone number of the Elder's caretaker; and
6. A description of the acts which are complained of as abusive; and
7. Any other information that the investigators believes might be helpful in establishing abuse.

NOTICE OF HEARING: Notice and hearing procedures shall be the same for suspected Elder abuse cases as they are for other Curyung Tribal Court cases.

## **SECTION 7. Elder Protective Services and Placements**

FUNDING OF PROTECTIVE PLACEMENTS/SERVICES: Protective services or protective placements shall be provided on either a voluntary or involuntary basis. Such services and placements shall be provided, subject available funding and resources, and only as determined necessary by the Curyung Tribal Court. The Elder, and where appropriate the Elder's family, if able to do so, shall pay for all or part of the costs of services or placement provided to them.

VOLUNTARY PLACEMENTS AND PROTECTIVE SERVICES: Protective services or placements may be provided on a voluntary basis by the Curyung Tribal Court when requested by any abuse Elder and the Tribal Court finds the Elder to be in need of such services or placement. The Tribal Court shall act on such petitions within ten (10) days.

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These services or placements shall be provided in the manner least restrictive to the Elder's liberty and rights consistent with the Elder's welfare and needs. Such services and placements shall be provided subject to available funding and resources and only as determined necessary by the Curyung Tribal Council. The Tribal Council shall develop a written plan for the delivery of Elder protection services.

INVOLUNTARY PROTECTIVE PLACEMENT/SERVICES: Upon an order of the Curyung Tribal Court, involuntary protective services or placement shall be provided to any elder who is incapacitated or who is abused.

### **SECTION 8. Emergencies**

The Curyung Tribal Court may act without going through the process outlined in Section 6 of this Chapter when emergency circumstances exist. The Tribal Court shall issue an emergency protection order authorizing protective services or protective placement on an emergency basis upon receiving clear and convincing evidence that an Elder:

1. Is at risk of immediate physical harm; or
2. Is incapacitated and cannot consent to protective services; or
3. An emergency exists.

The emergency protective order shall be issued for a maximum of thirty (30) days and shall specify the emergency services to be provided, by whom the services shall be provided, and any other relevant information to the existing emergency.

The Curyung Tribal Court may authorize a forcible entry to enforce the emergency protective order after attempts to gain voluntary access to the Elder have failed.

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## **SECTION 9. Rights of Elders, their Families, and Caretakers**

An Elder, the Elder's family, and caretakers, shall be informed about an Elder abuse investigation before it begins unless an emergency exists.

An Elder, the Elder's Family, or caretaker may refuse to allow an investigator into their home. In this situation, the investigator may seek a warrant for forcible entry before entering the home.

The Elder, Elder's family, and caretaker have the right to attend any proceeding pertaining to the determination of the Elder's situation.

The Elder, Elder's family, and caretaker have the right, at their own expense, to seek independent medical, psychological, or psychiatric evaluation of the Elder. These records shall be released to the Curyung Tribal Court if the Elder or caretaker wants the Tribal Court to consider such evaluations.

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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code TITLE II: Family Law**

### **CHAPTER 10 Cases Involving Juveniles**

#### **Section 1. Application of Tribal Laws to Juveniles**

#### **Section 2. Attending Hearings by Parents/Guardians**

##### **SECTION 1. Application of Tribal Laws to Juveniles**

The law and order laws of the Curyung Tribal Council and the Tribal Court procedures generally apply to juveniles the same as they do to adults, provided that specific ordinances may be developed, and may solely apply to juveniles.

##### **SECTION 2. Attending Hearings by Parents or Guardians**

In cases involving minor children, written notification shall be given to the child of an upcoming hearing and written notification also given to parents or guardians. The Curyung Tribal Council may request a parent or guardian to be present at their child's hearing, or, the Tribal Court may request parents or guardians to leave a hearing. The Tribal Court may appoint a spokesperson for the minor child in such cases.



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# **CURYUNG TRIBAL COUNCIL**

## **Judicial Code TITLE II: Family Law**

### **CHAPTER 11 Tribal Foster Care Licensing Standards**

**The Official Alaska Tribal Foster Care Licensing Standards, or “Alaska Standards” as Referenced Throughout the Licensing Standards**

**Section 1. Family Qualifications**

**Section 2. Safety Checks**

**Section 3. Personal Qualifications**

**Section 4. Health Qualifications**

**Section 5. Duty to Cooperate With the Tribe, the State, and the Birth Parents  
for Children in State Custody**

**Section 6. Confidentiality**

**Section 7. Care and Development of the Child**

**Section 8. Other Activities**

**Section 9. Education**

**Section 10. Home Environment, Health, and Safety**

**Section 11. Transportation Safety**

**Section 12. Termination, Suspension, and Revocation of License**

**Section 13. Training**

**Section 14. Variances and Waivers**

**Section 15. Civil Rights**

**Section 16. Amendments**

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## SECTION 1. Family Qualifications

- A. Applicants shall comply with all reasonable requests by the Tribe in the licensing process, and any ongoing monitoring of their homes after licensure.
- B. During and after licensure, foster families shall keep the Tribe informed of any changes in their status, including employment, names and number of children and adults living in the home, and how long they're going to stay if the adults are living there temporarily, and any changes of address or telephone number.
- C. Applicants shall provide the Tribe with the following information:
  - 1. Name, sex, address, birth date, tribal identification number, social security number (optional), and driver's license number (where possible) of applicants and all persons residing in the home, including het children of the foster parents old enough to drive a motor vehicle.
  - 2. Proposed number, sex, and age of foster children to be served.
  - 3. Names and addresses of at least four (4) persons, three of whom are unrelated, who have known the applicant(s) for two (2) years or more, and who can attest to their character and ability to care for children. The Tribe may contact schools, employers, adult children, and other sources for references.
  - 4. A statement as to whether the applicants have ever operated or currently are operating a licensed/certified care facility or foster home for children or adults, and reasons for any termination of such license or certification.
  - 5. Reports of where not available, a statement of the applicants of all criminal or juvenile delinquency charges for all persons living in the home, including all employees, volunteers, and minor children.
  - 6. Reports or where not available, a statement of the applicants of all allegations of child abuse and neglect, with dates and locations and resolution of those allegations for all persons living in the home, including all employees and volunteers.

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7. A statement demonstrating that the applicants generate an income sufficient to meet the needs and ensure the stability and financial security of the family, independent of any foster care maintenance payment.
  8. Documentation of all child support obligations in any state, whether the obligor is current with payments, or in arrears, and whether any applicant's/ foster parent's wages are being attached or garnished for any reason.
- D. Verification that at least one foster parent in the home is 18 years of age or older.
  - E. Within ten (10) days of a request for home licensure, the Tribe shall advise the applicant of the information and supporting material required to support the application.
  - F. Within forty-five (45) days of receiving all requested material, the Tribe shall approve or deny the request for licensure or request additional material in support of the application.
  - G. If the Tribe requests additional information, then it shall approve or deny the licensure within thirty (30) days of receiving the requested information.
  - H. Any denial shall be accompanied by a concise statement of the grounds for denial.
  - I. The Tribe will not issue a license if the prospective foster parents falsify (including by acts of omission) the application or supporting documents. The Tribe may act to revoke a license if falsification is discovered after licensure, or if foster parents fail to inform the Tribe of any disqualifying condition that arises after licensure.
  - J. The Tribe will not issue or renew a license if any safety rule or other standard requirement by the Tribe is not met.

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- K. The Tribe will issue a provisional license for one year to a new applicant when all required documentation has been received and all applicable standards have been assessed as being met. A license will not be issued to an applicant before all standards have been reviewed with the applicant and the applicant agrees to comply with all standards when the foster home license is issued. A license will not be issued until the required documentation has been received and all applicable standards have been assessed as being met. A license will not be issued to an applicant before all standards have been reviewed with the application and the applicant agrees to comply with all standards when the foster home license is issued. A license will not be issued until the required background checks for the applicant(s) and household members have been completed and show no evidence of criminal or other history that would prohibit the home from being licensed to provide foster care.
- L. Before the end of the first year of licensure, the Tribe will assess compliance with licensing standards. If the foster home meets all requirements, the Tribe will issue a Biennial Foster Home license that will be in effect for two (2) years.
- M. Before the expiration of a Biennial license, the Tribe will reassess compliance with all licensing standards. If the foster home is in compliance with the standards, the Tribe will renew the Biennial license for another two (2) years.

## **SECTION 2. Safety Checks**

### **A. Criminal History**

1. Prospective foster parents and members of the household age eighteen (18) years and older shall consent to a criminal record check and will provide fingerprints for the purpose of state and federal criminal records checks. No license will be issued until the results of these checks have been received and the Tribe has determined none of the individuals has a criminal history that would prohibit him/her from being a foster parent or household member in a licensed foster home.

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2. The Tribe will require that any employee or volunteer in a foster home or any individual living in a part of the foster home where the individual would have direct access to children in care, meet the background requirements for foster parents described in these standards. Employees, volunteers, and individuals residing in a facility where they would have direct access to children in care, will give the Tribe permission to check CPS history and criminal background by providing the Tribe with a “release of information” and fingerprint cards.

3. The minimum standards of character that are to be prescribed under this section shall ensure that none of the foster parents or other adults, age sixteen (16) and older, shall have been found guilty of, or entered a plea of solo contender, or guilty to, any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, arson, involving an imitation controlled substance, or a controlled substance, contact or prostitution; or crimes against persons.

4. The Tribe shall consider all information obtained through the criminal history checks including charges by complaint, indictments, arrests, and investigations of a serious criminal offense when issuing, renewing, denying, or revoking a license.

5. In accordance with the Adoption and Safe Families Act (ASFA) and State law, the Tribe shall not issue or renew a license if a member of the household has been:

- a. Convicted of committing, or attempting to commit, solicitation, or conspiracy to commit any of the following crimes or crimes of similar nature in any jurisdiction.
- b. For child abuse or neglect,
- c. Domestic violence,
- d. Arson,
- e. Stalking,
- f. A crime against the person and is a felony, except for a crime committed under AS 11.41.200 - AS 11.41.220 or AS 11.41.260

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- g. A crime that is a felony and involves a victim who was a child under age eighteen (18) years of age at the time of the conduct, including a crime where the perpetrator was a person responsible for the child's welfare;
  - h. Crimes against children (including child pornography),
  - i. A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery. (Taken from ASFA) Example might include two males fighting.

6. After a five-year period since the conviction of the crimes of either a felony physical assault, battery, or a drug related offense, the Tribe may review and consider the circumstances surrounding the crime and conviction; the probability of committing future offenses; of rehabilitation (including counseling, therapy, and education); and the relationship between the offense and the ability to be a foster parent in making a licensing decision.

**B. Child Protective Services (CPS) Background Checks**

1. Tribal Licensing Workers will obtain a "release of information" from the licensing applicant(s) and all household members age sixteen (16) and older, giving the Tribe permission to submit the individual's information for a CPS check. If the individual is found to have been the alleged perpetrator in a substantiated report of harm, or if there is an open case or report of harm in which the individual is involved, the Tribe will not issue a license to the individual or allow the individual to reside in a licensed foster home.

**SECTION 3. Personal Qualifications**

- A. Foster parents shall be responsible, stable, emotionally mature adults who exercise sound judgment and have the capacity to meet the mental, physical, and emotional needs of children placed in foster care.
- B. Foster parents shall understand the behavior of children in foster care, and shall use effective child-rearing practices that will enable children to grow and develop.

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- C. Foster parents shall understand and use non-punitive ways of discipline and ways of helping a child build positive personal relationships and self-esteem.
  - D. Foster parents must be able to provide temporary care, respect for the child's relationships with his/her birth family, and the ability to work in partnership with the Tribe, and the State of Alaska, if the child is in State custody, toward the return of each child to his/her birth parents, or to achieve an alternative permanent plan.
  - E. Foster parents shall demonstrate a capacity to give and receive affection, kindness, a sense of humor, and the ability to deal with frustration and conflict.
  - F. Foster parents shall have supportive ties with family, friends, neighborhood, and community.
  - G. Foster parents shall respect the Native culture and heritage of the Tribe and adhere to the Tribe's culture and heritage in all aspects of care of the children.

#### **SECTION 4. Health Qualifications**

- A. Prospective foster parents shall provide the Tribe with the health history of each member of the household, including physical and mental health services and treatment received. Foster parents shall inform the Tribe if any member of the household has or develops a serious communicable disease or the health condition.
- B. Foster parents and employees, volunteers, and other adults in the household caring for children shall be physically and mentally able to perform the duties of foster parents as prescribed in these rules. The Tribe may require a medical statement from a physician verifying that no person suffers from a communicable disease, specific illness, or disability which would interfere with the family's capability to care for children in foster care.
- C. Applicants must notify the Tribe of any prior or ongoing counseling or treatment of any parents, employees, volunteers, and other adults in the household caring for the children. Once licensed, the duty to notify the Tribe of any counseling or treatment is ongoing. Applicants and foster parents

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shall supply psychological, medical, or physical, sex-offender, drug and alcohol, and psychiatric reports and evaluations to the Tribe. The Tribe may require that a release of information be signed for the purpose of obtaining the above or other reports.

**SECTION 5. Duty to Cooperate With the Tribe, the State, and the Birth Parents for Children in State Custody**

- A. Foster parent shall cooperate with the Tribe and the State of Alaska in any investigation involving their license, and/or any child in their home.
- B. The foster parents shall cooperate with the Tribe, the State of Alaska, and the birth parents in developing and implementing a child's case and service plans and executing all court orders regarding the child.
- C. Foster parents shall notify the Tribe and the State of Alaska when the child is in State's custody and placed in a tribally licensed foster home, immediately of, injury, illness, accidents, or any unusual circumstances which threaten the health, safety, physical or emotional wellbeing of the foster child.
- D. Foster parents shall allow the Tribe and the State of Alaska, when the child is in State's custody and placed in a tribally licensed foster home, reasonable access to their home and to the children placed in their care.
- E. The Tribe will determine the appropriate number and ages of children for which the foster home will be licensed. The foster parents shall not exceed the licensed capacity or accept a child outside of the licensed age range for placement. To ensure the health and safety of all children in the home, the Tribe will consider the ratio of adults to children, the level of supervision available, the skill levels of the foster parents, the health, safety, and special needs of children in the home, and the local standard in the community when determining the license capacity and age range for the foster home. The number of children in the home will not exceed the limit that would assure that the needs of each child in the home can be met.
- F. The Tribe may modify the licensed age range or capacity based on a request from the foster parent and an assessment by the Tribe that the home can meet the health, safety, and developmental needs of the children who would be placed as a result of the request change(s). If the Tribe determines that a



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license will be modified for a change in capacity or age range, a new license reflecting the change(s) will be issued.

- G. In accordance with the case plan, foster parents shall:
1. Respect and support the child's relationship with his/her extended family members; and
  2. Assist the caseworker in planning visits with the child and his/her parents and family members; and
  3. Allow children reasonable opportunities to communicate with their immediate and extended clan and birth family, Guardian Ad Litem, and social worker.
- H. The Tribe may develop a mentor program to assist foster families in resolving problems that arise in connection with the placement of children. Foster parents will participate in this program if so required by the Tribe.

## **SECTION 6. Confidentiality**

- A. The foster family shall treat personal information about a child and the child's family in a confidential manner.
- B. Confidential information may be disclosed only when necessary to provide for the safety and wellbeing of a child or other children in the home or as required by Tribal, State, or Federal law. The information shared must be limited to only what is necessary to comply with this rule. This duty not to disclose confidential information applies during the period in which the foster family cares for the children and forever thereafter.
- C. In maintaining children's records:
1. Foster parents will maintain records on the physical and mental health care received during placement, immunizations, and educational and placement progress for the duration of the child's placement. Within ten (10) days of the termination of a foster care placement, the foster parents shall relinquish all records to the placement agency (Tribe/State).
  2. Foster parents shall keep such written records for each foster child in a manner that ensures their confidentiality.

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## SECTION 7. Care and Development of the Child

### A. Daily Living:

1. Foster parents shall treat natural children and foster children placed in their home equitably.

2. Foster parents shall provide structure and daily activities designed to promote the physical, social, intellectual, spiritual, and emotional development of the children in home.

3. Playthings shall be available in the foster home, including games, recreational and educational materials, and books appropriate to the age and development level of the child.

4. Foster parents shall help the foster children placed in their home develop skills and perform tasks that promote independence and self-sufficiency.

5. Foster parents shall participate with the Tribe to help children in foster care maintain an awareness of their past, a record of the present, and a plan for the future.

6. In accordance with the case plan, the foster parent shall ask children placed in their home to assume work responsibilities appropriate to the child's age and ability and commensurate with those expected of their own children.

7. Foster parents shall not use mechanical restraints on children in their care other than car seat belts and normally acceptable infant safety products.

8. Each child in placement shall be treated with respect and dignity. The foster family shall:

- a. Respect the child's Native heritage;
- b. Provide meaningful opportunities for the child to develop relationships with Tribal members and practices of the Tribe;
- c. Ensure regular contact with the foster child's caseworker; and
- d. Provide the child access to telephone and writing materials and other household resources, in accordance with the standard of the local community;
- e. Allow the child to receive and open his/her own mail and to have private phone calls unless the foster parent has been asked to monitor the communication by the placement social worker.

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B. Alternate Caregivers:

1. The foster parents shall arrange for safe and responsible childcare.
2. When the foster parents are absent overnight, or longer, a person of least eighteen (18) years of age, capable of assuming foster care responsibilities, shall be present in the same home to supervise the children. The foster parents shall provide contact information where they can be reached during their absence. Foster parents shall not leave children for more than forty-eight (48) hours without giving notice to the caseworker.

C. Food and Nutrition:

1. Foster parents shall provide well-balanced daily meals.
2. Foster parents shall provide for any special dietary needs of the children placed in their homes.

D. Clothing and Personal Belongings:

1. Foster parents shall provide each child with his or her own clean, well-fitting, attractive, seasonal clothing appropriate to age, sex, individual needs, and comparable to the local community standards.
2. Foster parents shall allow children to bring and acquire personal belongings.
3. Foster parents shall send all personal clothing and belongings with the children when they leave the foster home.

E. Discipline and Guidance:

1. Many children come into foster care because they have suffered physical abuse and severe punishment. It is vital that foster parents use positive discipline and guidance to help the child develop acceptable behavior.
2. Foster parents shall teach and discipline children with kindness and understanding.
3. Foster parents shall set clear expectations, limits, and consequences of behavior.
4. Foster parents shall teach each child with techniques that stress praise and encouragement.

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5. No foster child or other child in a foster home shall be subjected to corporal punishment, physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury, or threats of harm.

6. Foster parents shall not deny a child food, clothing, shelter, rest, or contact with family members and the Tribe.

F. Health Care:

1. Foster parents shall work with the Tribe to ensure that health care needs of children placed in their care are met, including making and arranging transportation to medical, dental, and counseling appointments as needed, and as is possible based on the resources available in the local community and the region.

2. Foster parents shall obtain necessary emergency medical care for children placed in their home as is possible based on the resources available in the local community and the region. Foster parents shall obtain permission, where possible, from the birth parents and the DFYS Case worker for major medical decisions that are not of an emergency nature.

3. Foster parents shall be responsible for keeping immunizations current for children placed in their home.

4. Foster parents shall give children prescription medication only in accordance with a physician's prescription or authorization.

5. Foster parents shall give children prescription psychotropic (mental health) medication only with the parent's permission or if DFYS gets a court order approving the children's use of the medication.

6. Foster parents shall not provide tobacco products in any form to children under the age of eighteen (18) in their home.

## **SECTION 8. Other Activities**

A. In accordance with the case plan, foster parents shall participate with the Tribe to arrange transportation to Tribal events.

B. Foster parents shall not require children to participate in activities that may demean their Native heritage or violate cultural tenets or beliefs.

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- C. Foster parents shall encourage the children to participate in Tribal activities and events.
  - D. Foster parents shall provide opportunities for recreational activities appropriate to the age and abilities of the child.
  - E. Foster parents shall encourage the children to participate in religious activities and promote the religious preference of the birth parents or the child if age appropriate, if so requested by the birth parents. The foster parents shall not impose their religious beliefs or practices on the foster children placed in their care.

## **SECTION 9. Education**

- A. Foster parents shall enroll each child of school age within five (5) school days of placement of the child or in accordance with the case plan.
- B. Foster parents shall be actively involved in educational programs appropriate for the child's age, abilities, and in accordance with the case plan.
- C. Foster parents shall plan with school personnel when there are issues with the child in school, and report to the Tribe, or the State of Alaska when the child is in State's custody, any situations that may require the Tribe's involvement (or the State of Alaska when the child is in State's custody.)

## **SECTION 10. Home Environment, Health, and Safety**

### **A. Home Environment**

1. The foster parent's home shall, to the extent possible in the local community, and in accordance with local community standards, be accessible to schools, recreation, churches, medical care, and community facilities.
2. The premises shall, to the extent possible in the local community, and in accordance with local community standards, be free from pests, objects, materials, and conditions that might constitute a danger to the occupants.
3. Foster parents shall take measures to keep the house and premises free from rodents and insects.

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4. The home shall be well heated and well ventilated, in accordance with the standards of the local community.
  5. Stairways shall be equipped with safety features in accordance with local community standards.
  6. Foster parents shall install and maintain working smoke alarms in every room in which a foster child sleeps and at least one on each floor of the home.
  7. A foster home shall post a diagramed fire escape plan. This escape plan is to be in an accessible location within the foster home and reviewed periodically with the foster children. In addition, the foster parents are to provide the Tribe with a copy of the escape plan.
  8. A foster home shall have one class 2-A-10BC rated fire extinguisher in the house, or demonstrate that there is a system in place to extinguish fires that is satisfactory to the Tribe.
  9. The foster home shall have a continuous supply of safe, clean drinking water. Private water sources and septic tank systems shall be safe and operable.
  10. The foster home shall have an adequate system for disposing of human waste that is sanitary, in accordance with the standards of the local community.
  11. Foster parents shall keep the home clean and free of hazards to the health and physical wellbeing of the family.
  12. The foster home shall have an adequate supply of hot water for bathing and dish washing.
  13. Foster parents shall provide each child with adequate storage space for personal belongings, in accordance with the standards of the local community.
  14. Foster parents may allow a child over the age of five (5) to sleep in the same bedroom as a child of the opposite sex, only after consulting with the Tribe and determining that factors such as the age, health, developmental level, and history of the children would not affect the health, safety, or wellbeing of the children.

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15. Bedrooms used by foster children must have easily accessible and safe emergency access and egress to and from the room, and to and from the home.

16. Bedrooms use by children in care shall:

- a. Be safe and have adequate space for each child, in accordance with the standards of the local community;
- b. Provide sufficient natural light and ventilation, in accordance with the standards of hotel local community;
- c. Normally have no more than four (4) children to a bedroom. More than four (4) children may share a bedroom in situations where this practice is consistent with community standards and after consideration of the age, health, development, and history of the children has been determined that sharing a bedroom adequately ensures that the health, safety, and privacy needs of the children in care are met and does not increase the risk of harm to children;
- d. Have a bed for each child and a crib for each infant. Children may share a bed, if, and after an evaluation of factors such as the age, health, developmental level, special needs and history of the children, it has been determined that such an arrangement would not pose a risk to the health, safety, or wellbeing of the children or increase the risk of harm to the children in care;
- e. Foster parents must ensure that the bedding used by foster children is kept in a sanitary condition at all times and adequately provides warmth and comfort to the children

B. Health:

1. Each child will have access to resources to enable personal hygiene and grooming, based on the standards of the local community.
2. Foster parents shall provide each child individual items necessary for personal hygiene and grooming, in accordance with the standards of the local community.
3. Foster parents shall prepare the serve meals in a safe and sanitary manner that minimizes the possibility of food poisoning or food infection.

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C. Safety:

1. The foster parents shall protect the children from safety hazards.
2. Foster parents shall ensure that foster children are supervised and appropriate safety precaution is taken when engaging in activities that are otherwise appropriate but that pose a risk of harm to the children (such as water-related activities or inherently dangerous subsistence activities).
3. Foster parents are accountable for the safety of foster children at all times whether they are supervising the activities of the children, or not.
4. Foster parents shall store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by children.
5. Foster parents shall have the ability to communicate with emergency medical services and to obtain the same emergency services available generally to the residents of the local community.
6. Foster parents shall restrict children's access to potentially dangerous animals.
7. Foster parents shall store any ammunition and unloaded and operable firearms in separate locked places.
8. Foster parents will not travel in a vehicle with a loaded firearm with foster children in the vehicle.
9. Foster parents shall have first aid supplies in a place easily accessible to adults.

**SECTION 11. Transportation Safety**

- A. Foster parents shall provide or arrange for safe transportation for children in placement to attend school, recreational, and medical activities.
- B. Foster parents shall maintain all personal vehicles owned by them used to transport children in a safe operating condition, in accordance with the standards of the local community.



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## SECTION 12. Termination, Suspension, and Revocation of License

### A. Termination:

1. Foster parents may terminate their foster care responsibilities to children in their homes only on thirty (30) days written notice to the Tribe and after consultation with the caseworker. The Tribe may waive this notice requirement if such waiver would be in a child's best interests.

### B. Suspension:

1. The Tribe may suspend a foster home license because of violations of one or more licensure rules or because of conditions in the home that render it unlicensable.

2. A notice of suspension must be in writing and must list the violations, along with the actions necessary for compliance, and any services available to assist the foster parents with compliance.

3. A license may be suspended of up to 180 days.

4. Children in placement will be removed from homes with suspended licenses.

5. No additional placements will be made during the period of suspension.

6. Within thirty (30) days of the effective date of the suspension, the foster parents shall submit a written corrective action plan to the Tribe. This plan must list the steps that will be taken to correct the deficiency.

7. This action plan must be approved by the Tribe and signed by both the foster parents and the Tribe. Failure to submit a plan will constitute a withdrawal from licensure.

8. At the end of the suspension period or when the foster parent complies with the plan to remedy the conditions that led to the suspension, the Tribe may:

- a. Reinstatement of the license for the term of the original license;
- b. Issue a new license;
- c. Deny an application for re-licensure; or
- d. Notify the foster parents of the intent to revoke the license.

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### C. Revocation

1. The Tribe will revoke a foster home licensure only after one or more of the above steps have been attempted or when child safety concerns warrant an immediate revocation.
  2. A notice of revocation shall be in writing and shall state the reasons for revocation.
  3. The Tribe may take any action necessary to protect the health, safety, and welfare of foster children, including emergency removal of foster children from a foster home or referral to any law enforcement or other child protective agency or organization to effect such removal.
- D. Foster parents may appeal the suspension or revocation of their license by making a written request to the Tribe.
- E. If the Tribe has not received a request for a hearing within twenty-one (21) days of mailing or other service of the notice, the foster parent shall have waived the right to a hearing.

### **SECTION 13. Training**

- A. The Tribe will require tribally licensed foster parents to complete foster parent training each year. A foster parent in a one-parent foster home shall complete a minimum of ten (10) hours of training annually. Foster parents in a two-parent foster home shall complete a minimum of fifteen (15) hours of training annually that may be shared between the two foster parents. However, each parent in a two-parent foster home shall complete a minimum of five hours of training annually. Training may be accomplished through on site trainings, self-study packets, or electronically received training materials. Training is required in order to continue being licensed.
- B. Within ninety (90) days of licensure the Tribe shall require at least one parent in the home to possess a current Infant/Child Cardio Pulmonary Resuscitation (CPR) certification.

### **SECTION 14. Variances and Waivers**

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- A. Variances may be requested by the foster parent. The Tribe will consider requests on a case by case basis to ensure that the variance allows the foster home to meet the standard in another way and will approve or deny the request based on their findings so as to protect the health, safety, and wellbeing of the child /ren.
  - B. Non-safety standards may be waived for relative foster parents. Criminal background clearances and other safety standards may not be waived. Non-safety standards may only be waved for relative foster parents and only when the health, safety, and wellbeing of the child is otherwise supported in the foster home.

### **SECTION 15. Civil Rights**

- A. All actions taken by the council or its agents or employees shall conform to the requirements of the Indian Child Civil Rights Act, 25 U.S.C. Section 1302.

### **SECTION 16. Amendments**

- A. The Tribe/Tribal organization may submit recommendations for change to these “Alaska Standards” to the Tribal/State Collaboration Group upon a majority vote of the membership at a duly convened meeting.
- B. The sovereign immunity of the Tribe, the members of the council, law enforcement officers, prosecutors, judges, court personnel, and any other personnel necessary for implementation and enforcement of these “Alaska Standards” is in no way waived by using these Alaska Tribal Foster Care Licensing Standards.