



DOMESTIC RELATIONS CODE

NENANA TRIBAL GOVERNMENT

Nenana, Alaska

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Signed Certificate in Council Files

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CHAPTER 1
GENERAL PROVISIONS FOR DOMESTIC RELATIONS CODE

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Section 1. Purpose

The purpose of this Code is to provide policies and guidance for the Nenana Tribal Government to take an active role in providing for the health, safety, and welfare of the Nenana people and residents of Nenana, to preserve and strengthen family ties whenever possible, to protect and preserve tribal heritage and cultural identity of the persons within the Tribe's jurisdiction, and to promote cooperation with the Tribe by other courts and agencies in fulfilling the purposes of this Code. The intention of this Code is to promote the health, safety, and welfare of the most valuable resource of the Tribe, the Nenana people. The welfare of the children is of the foremost importance, and any decisions of the Nenana Tribal Court shall be based on the best interest of the children and future generations of the Tribe.

Section 2. Authority and Jurisdiction

The Nenana Tribal Government regulates domestic relations matters under the authority of its inherent sovereign powers as a federally recognized Indian tribe, as provided by the Constitution of the Nenana Tribe and written and unwritten traditional laws of the Tribe, and under any additional new powers so delegated or implied by Congress or the State of Alaska. The Nenana Tribal Court shall have the authority to hear and decide all matters in this Code where one or more of the

parties in a case are members or are eligible for membership in the Nenana Tribe, or where the health, safety, or welfare of the tribal members, other Village residents, or the Village of Nenana is affected.

JURISDICTION OVER CHILDRENS MATTERS:

- A. Exclusive jurisdiction:** Once the Nenana Tribal Court exercises its authority in any child's case under this Code, the Nenana Tribal Court has 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 Tribal Court Order.

- B. Jurisdiction over tribal children:** The Nenana 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 Nenana Tribe. The Nenana Court shall also have the authority to take temporary protective custody over any and all children in emergency circumstances, regardless of tribal membership, within the Village, until the matter can be transferred to the child's tribe or to the State of Alaska for action.

- C. Children who are members or eligible for membership in more than one tribe:** It is the policy of the Nenana Tribal Court that if a child is a member, or eligible for membership in more than one tribe, that the Nenana Tribal Court contact the other tribe and do one of the following:

 - 1. Form a joint court for that child's case, or
 - 2. Allow the other tribe to be a party to the case, or
 - 3. To allow the other tribe to be advisors to the Nenana Tribal Court for that particular case, or

4. Offer that the other tribe hear the case if the other tribe has an operating tribal court, has the most significant contacts, and if it is the best interest of the child for it to do so.

D. Place of residence: The Nenana Tribal Court has the authority to hear and decide childrens cases involving tribal members or children eligible for tribal membership regardless of where the children reside.

Section 3. Rights and Best Interest of the Child

Children have the absolute right to be raised in a safe, secure, nurturing and loving environment. Children have the right to be raised among their own people and by the standards of their own culture.

In all cases involving children, the Nenana 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 determining what is in the best interest of the child, the Court shall consider the following factors:

1. The child's wishes if he or 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, spiritual needs, cultural needs, and any other special or identified 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
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 well being 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 the desirability of the child remaining at that school; and
9. The advantages of keeping the child in the community where the child resides; and
10. Any other considerations the Court feels are relevant to the best interest of the child.

Section 4. Child Placement Preferences

The following placement preferences shall be applied in cases where a child is placed out of the home, unless the Court finds that it would be in the child's best interest to vary the order of preference or place the child not according to these preferences:

1. A member of the child's extended family who resides closest 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 Nenana Tribe.
4. A foster home, licensed, approved or specified by the Nenana Tribe.
5. A member of another tribe with whom the child is culturally related.
6. A resident of Nenana.

Section 5. Qualifications for Judges Hearing Childrens Cases

Judges in the Nenana Tribal Court shall not hear childrens cases in violation with the Indian Child Protection and Family Violence Prevention Act of 1990. No Judge shall serve on a childrens case if they have been found guilty of, or entered a plea of nolo contendere or guilty to any felonious offense, or any of the two or more misdemeanor offenses under Federal, State or tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact of prostitution, offences committed against children and:

Murder in the first degree, unclassified felony
Murder in the second degree, unclassified felony
Manslaughter, Class A felony
Criminally negligent homicide, Class C felony
Assault in the first degree, Class A felony
Assault in the second degree, Class B felony
Assault in the third degree, Class C felony
Assault in the fourth degree, Class A misdemeanor
Reckless endangerment, Class A misdemeanor
Stalking in the first degree, Class C felony
Stalking in the second degree, Class A misdemeanor
Kidnapping, Unclassified felony
Custodial interference in the first degree, Class A misdemeanor
Sexual Assault in the first degree, unclassified felony
Sexual Assault in the second degree, Class B felony
Sexual Assault in the third degree, Class C felony
Sexual abuse of a minor in the first degree, unclassified felony
Sexual abuse of a minor in the second degree, Class B felony
Sexual abuse of a minor in the third degree, Class C felony
Sexual abuse of a minor in the third degree, Class A misdemeanor
Incest, Class C felony
Unlawful exploitation of a minor, Class B felony
Indecent exposure: before person under 16, Class A misdemeanor
Indecent exposure – before a person 16 or older, Class B misdemeanor
Robbery in the first degree, Class A felony
Robbery in the second degree, Class B felony
Extortion, Class B felony
Coercion, Class C felony

Section 6. Paternity Testing

When a Nenana Tribal Court case involves a child whose father is not identified on the Birth Certificate, the Court may Order paternity testing for the biological, or alleged biological father of the child unless there is good cause not to establish paternity. 'Good cause' may include, but is not limited to cases involving domestic violence, incest, rape, or cases where identification of the father is not in the best interest of the child.

Section 7. Definitions

The following words and phrases, whenever used in this Code, shall have the following meanings:

"Adoptive placement" means the permanent placement of a child for adoption.

"Adult" means a person who is eighteen 18 years of age or older.

"Child" means a person who is under 18 years of age.

"Child protection case" means a case where a child is found to be a "child in need of protection," as defined in Chapter 2, Section 2 of this Code.

"Corporal punishment" means the infliction of bodily pain as a penalty for disapproved behavior. It includes actions such as shaking, spanking, delivering a blow with a part of the body or an object, slapping, punching, pulling or action that seeks to induce pain.

"Custodian" means a person who has been given responsibility to care for a child either by a parent, or under tribal custom, court order, tribal law or State law.

"Domestic violence" Domestic violence means assault, threats of violence, or physical, sexual, or coercive controlling behavior to gain power and control over another through the use of fear, threats, intimidation, coercion and/or physical violence when the victim is a spouse, a former spouse, an extended family member, a boyfriend or girlfriend, or any other person who has been an intimate partner, or a member of the social unit made up of those living together in the same dwelling or village as the victim.

"Extended family" means the person's parents, children, siblings, aunts, uncles, grandparents, great-grandparents, great-aunts, great-uncles, cousins, second cousins, or someone who is considered to be extended family under the traditional laws of the Nenana Tribe.

"Foster care placement" means any action removing a child from his/her parent or custodian for temporary placement in a foster home, a relative's home, an institution or the home of a guardian where the parent or custodian cannot have the child returned on demand.

"Foster home" means a home certified or licensed to provide foster care by the Nenana Tribe or another federally recognized tribe or a state licensed home.

"Guardian" means a person who is not a parent and is appointed by a tribal or state court to have legal custody of a child. A "Guardian" is not the same thing as a "Guardian ad litem."

"Guardian Ad Litem" means a person appointed by the Nenana Tribal Court to look after the best interests of any child involved in a case under this Code. The Guardian Ad Litem may be the tribal child welfare worker. The guardian ad litem (GAL) shall be a full party in all cases. The guardian ad litem's job is to investigate facts in the case and advise the Court what actions the Court should take that would be in the child's best interest. The Court may adopt the advice of the GAL in whole or in part, or for good cause, may act or order action that is different than the advice of the GAL.

"Guardianship" means a legal relationship assigned by the tribal court whereby the guardian has the duty and responsibility to make legal, financial, health and education decisions for a minor child until they reach

the age of 18, or for a person created when a person or institution is assigned by a court to take care of minor children or disabled adults.

"Involved agency" means an agency that is a party to the case due to the request of the Tribe or because of the jurisdiction of another government over the case. Examples of this might be the State of Alaska Office of Children's Services, or the social services department of an Alaska Native non-profit corporation, another tribe or county in another state.

"Most significant contacts" means that the Nenana Tribal Court shall consider the following factors when deciding if it is in the best interest of a child for another tribe that the child is a member of or eligible for membership in shall hear a case:

1. Length of time the child has lived in or near the Village of Nenana; and
2. The child's participation in the activities of the Nenana Tribe; and
3. The child's fluency in the Native language of Nenana; and
4. Whether there has been a previous case with respect to the child by the Nenana Tribal Court; and
5. The tribal membership of the child's custodial parent or other custodian; and
6. The child's self identification with the Nenana Tribe; and
7. Any other information relevant to the child's contacts with the Nenana Tribe.

"Parent" means the biological parent of a child or any person who has lawfully adopted a child, whether in State or Tribal Court, or under tribal custom. It shall not mean the unwed father where the father has not admitted or acknowledged in writing or otherwise that he is the father, or where a Court Order establishing paternity has not been entered (i.e. "paternity" has not been established). It shall not mean any person as to whom the parent-child relationship has been lawfully terminated.

"Parties" means Petitioner(s) and Respondent(s) listed in the Petition to use the Tribal Court, the guardian ad litem and any other person or entity who is given the right by the Nenana Tribal Court to express and protect their interests in a case.

"Permanency placement" The most preferred option for permanency is the safe and permanent reunification of the child with its parents. When this is not possible, permanency placement means a placement in which a child is adopted, placed in long-term guardianship, or placed in a permanent foster care until they reach the age of majority or graduates from high school.

"Probable cause" for the purposes of a "child protection proceeding" means evidence from a reasonable, trustworthy source that would be a reasonable ground for belief that a child is a "child in need of protection" and that an investigation and hearing should be conducted to determine all the facts.

"Termination of parental rights" means any action resulting in the termination of the parent-child relationship.

"Ward" means a child who has been taken into custody by the Court making the Court the child's legal guardian.

CHAPTER 2

CHILD PROTECTION CASES

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Section 1. General Provisions for Child Protection Cases

- A. Mandatory Reporting of Child Abuse and Neglect:** Any person, entity, or agency, as a mandatory reporter or not, with knowledge of or reasonable suspicion of abuse or neglect of a Nenana tribal child, regardless of where the child lives, is required to report such abuse to the social services staff of the Tribe. Any person who is a mandatory reporter under State of Alaska guidelines shall report such abuse or neglect of a Nenana tribal child, to both the Nenana social services staff and to the Alaska Office of Children's Services. Mandatory reporters under Alaska law include practitioners in the health field, administrative officers of institutions that deal with medical care, paid employees of domestic violence or sexual assault programs, counseling or treatment programs, school personnel, peace officers, and child care providers.
- B. Starting a Child Protection Case:** The Nenana Tribal Court may hear child protection cases involving tribal children, upon receiving a Petition to Use the Tribal Court, and a decision to take the case is made by the Nenana Tribal Court Judges. Petitions may be filed by any person who has reason to believe a child is in need of protection. When a Petition is received, the clerk shall contact the Nenana Tribal Court Judges according to the court rules established by the Nenana Tribal Court Judges. A minimum of three Nenana tribal court judges must review the petition, and agree to take a case. If more than three judges review the petition a minimum of three must agree to take a case or majority vote if more than 5 judges review the petition. A case officially begins when this decision is made and noted in the case record. If the Court decides not to hear a case, the clerk shall notify the petitioner as soon as possible after the decision not to hear the case. Child protection cases may also be initiated when the Nenana Tribal Court requests a transfer of jurisdiction

in a child in need of protection case from a different court, if it is the best interest of the child to do so.

- C. Determining jurisdiction and if a child is a 'child in need of protection':** If the Court decides to hear a case, the Court shall make a finding that it has jurisdiction because the child is a member of or eligible for membership in the Nenana Tribe as supported by proper enrollment documentation. Before taking custody of any child, the Court shall also make a determination that the child is a 'child in need of protection' according to the definition in Section 2 of this Chapter.
- D. Ward of the Court:** A child becomes a ward of the Nenana Tribal and is under the legal custody of the Court, when the Court holds a hearing and makes a determination that the child is a child in need of protection. The child shall remain a ward of the Court until the Court closes the case or transfers the case to another court. A child may also become a ward of the Nenana Tribal Court when a child in need of protection case is transferred from another court.
- E. Timeframes for tribal custody of children:** The Nenana Tribal Court may take emergency custody of tribal children under circumstances when they are in imminent danger, for up to 72 hours, upon which time a proper hearing shall be held. The Nenana Tribal Court may take temporary protective custody of tribal children for up to one year, while conducting review hearings at least every 90 days during that timeframe. After the one year mark, the Nenana Tribal Court shall move towards permanency placement which is reuniting the child with the parent(s), adoption, or long-term guardianship.
- F. Case Plans and Permanency Planning:** A case plan that includes services and permanency placement planning shall be made for each

child who becomes a ward of the Nenana Tribal Court. The plan shall be made based on the best interest of the child with the premise that each child has a need and right to a permanent home. The primary goal of permanency planning is the maintenance of the family and reunification of the biological family through treatment and services to the family. The plan shall outline services and treatments directed towards correcting the causes of the children's removal and reunification of the family. If a preponderance of the evidence demonstrates that the parent(s) will not, or cannot make changes necessary for the reunification of the family prior to one year, the Court may implement steps toward adoption or long-term guardianship.

- G. Rights and Best Interest of the Child:** In all child protection cases, the Court shall hear all 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's best interest. The best interest of the child, as defined in Chapter 1, Section 3 of this Code, shall be placed above the rights of any other person or entity.
- H. Child Placement Preferences:** When a child is placed outside the home of biological parents, the Court shall follow the guidelines provided for placement preference in Chapter 1, Section 4 of this Code.
- I. When the child is also a member or eligible for membership in another tribe:** If the child is a member of, or eligible for membership in any other known tribes, the tribal court shall contact such tribes to notify them when a Petition to Use the Tribal Court is filed. The Nenana Tribal Court may offer such tribe to take the case if it is in the best interest of the child for the other tribe to hear the case. Or, the Nenana Tribal Court may offer to form a joint tribal court for that case, allow the other tribal

court to intervene and be a party in the case, or allow the other tribal court to offer any evidence or advice for the case.

- J. Attorneys in the Nenana Tribal Court Room:** Parties may hire their own attorneys at their own expense. Attorneys may submit written documents to the Court, and may be in the Nenana Tribal Court proceeding, provided that they may speak with their clients but not directly to the Tribal Court without express permission of the Nenana Tribal Court Judges serving on the case.

- K. Appeals:** If a party takes issue with the application of tribal law or due process of the Nenana Tribal Court, the party may proceed with an appeal of the Court's Order in the Nenana Tribal Appellate Court.

Section 2. Tribal Definition of 'Child In Need Of Protection' and Legal Authority to Examine a Child for Abuse

Physicians and health professionals may examine any child suspected to be physically/sexually abused and/or neglected without written or verbal consent of the parent/guardian in the event the parent/guardian is alleged to be the perpetrator or otherwise refuses such exam. Child protection cases involve a 'child in need of protection' as defined as a child who:

- i. Has suffered neglect, including inadequate supervision, failure to provide for adequate nutrition, housing, emotional, and educational needs and/or exposure to dangerous behavior in the household or vehicles as a result of conditions created by the child's parent, guardian or custodian.

- 2. Has suffered physical, mental, or emotional harm or there is substantial and immediate risk that the child will suffer such harm as a result of the

actions of or conditions created by the child's parents, guardian or custodian involvement in violent or dangerous behavior.

3. Has suffered substantial physical abuse as evidenced by skin bruising, bleeding, malnutrition, failure to thrive, burns, fractures of any bone, hematomas, soft tissue swelling, or any other physical injury or impact that may be the result of deliberate and/or inappropriate infliction by the child's parent, guardian or custodian, or as the result of the failure of such persons to adequately supervise the child; or
4. Has been sexually abused, including sexual assault, rape, sexual molestation, sexual exploitation, sexual contact, pornography, prostitution, or otherwise exposed to inappropriate sexual contact either by the child's parent, guardian or custodian, or as a result of conditions created by the child's parent, guardian or custodian or by the failure of the parent, guardian or custodian to adequately supervise the child; or
5. Is in need of medical treatment, needs help to relieve or prevent substantial physical harm or mental harm as shown by failure to thrive, severe anxiety, depression, withdrawal, or exaggerated, inappropriate or unusual aggressive behavior or hostility toward others and the child's parents are unwilling to provide the medical treatment; or
6. Has no parent, guardian, custodian or relative caring or willing to provide care; or
7. Refuses to live at home with significant reason, or refuses to accept available care.

Section 3. Contents of Child Protection Petition

The Petition to Use the Tribal Court 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 names and addresses of the child's parents and any custodians of the child; and
3. The names and addresses of any other person or tribe with an interest in the child; and
4. The reason why the petitioner believes that a child needs protection; and
5. Any available written evidence of injuries, abuse or neglect (doctor report, public health nurse report, health protection report, teacher's report, report of witness to injury, abuse or neglect, etc.), and/or any other information that may be helpful in identifying the cause of the child's injuries or neglect; and
6. A statement of which tribe(s) the child is a member or with which tribe(s) the child is eligible for membership.
7. Information on any cases that may exist regarding the child in another court.

Section 4. Emergency Child Protective Custody

A. Emergency Procedures: The Nenana Tribal Court may take emergency child protective custody actions only when there is probable cause to believe that immediate action is necessary to prevent imminent physical damage or imminent harm to the child. After the tribal court clerk, or tribal administrator or tribal council member in the absence of the tribal court clerk receives a Petition with sufficient reason to believe that immediate action is necessary, any three of the Nenana Judges shall decide to hold an emergency hearing, which may be telephonic, and may issue an Emergency Protective Custody Order that a child be physically placed into a safe location or other action taken to protect the child. The Emergency Protective Custody Order shall state the emergency nature of the Court's action.

B. Notification in Emergency Circumstances: The Court shall immediately serve the parents, guardians, custodians and any other tribes with an interest in the child due to tribal membership, with a copy of the Emergency Protective Order. If attempts to notify the child's parents, guardians, or custodians are unsuccessful, then immediate notifications shall be made to the child's nearest relatives. The Alaska Office of Children's Services shall also be notified.

C. Duration of Emergency Protective Custody Order: A Temporary Emergency Protective Custody Order shall be valid for 72 hours, after which time a hearing with proper notice shall be held.

Section 5. Temporary Protective Custody Hearings

A. Temporary Protective Custody Hearing Following Emergency Custody: A Temporary Protective Custody Hearing with notification to all parents, custodians, and/or guardians of the child shall be held within 72 hours of taking Emergency Custody of a child. At the hearing, the Court shall make a determination that it has jurisdiction over the child because the child is a member or eligible for membership

into the Tribe as determined by proper enrollment documentation. The Court shall then make a determination whether the child is a 'child in need of protection' according to the definition in Section 2 of this Chapter. If the child is not found to be a 'child in need of protection' the court may decide to return legal custody to the parent(s), custodian, and/or guardian and dismiss the case. If the Court decides the child is a 'child in need of protection', the Court shall conduct the hearing and take all evidence and testimony under consideration. The Court may take legal custody and place the child in the physical custody of the parents, custodians, or guardian with specific directives, or place the child in an appropriate foster placement based on the preferences of Chapter 1, Section 4 of this Code. Specific directives may include but are not limited to directing that the child, parent(s), custodian, or guardian take educational classes, alcohol 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. The Court shall initiate a case plan, and hold the first review hearing within 30 days, and every 90 days following that until the Tribe no longer retains legal custody of the child.

B. Temporary Protective Custody Hearings in Non-Emergency Circumstances:

When the Nenana Tribal Court receives a Petition to take a child into tribal custody in non-emergency circumstances and decides to hear the case, the Court shall schedule a hearing within 30 days and give at least a 10 day Notice of the hearing to all parents, guardians, and/or custodians of the child, and to any other recognized parties in the case. The Notice shall state what kind of a hearing is being held, and the date, time, and place for the hearing.

At the hearing, the Nenana Tribal Court shall first determine whether it has jurisdiction and whether the child is a 'child in need of protection' as defined in Section 2 of this Chapter. If the Court decides the child is a 'child in need of

protection', the Court shall conduct the hearing and take all evidence and testimony under consideration. The Court may take legal custody and place the child in the physical custody of the parents, custodians, or guardian with specific directives, or place the child in an appropriate foster placement based on the preferences of Chapter 1, Section 4 of this Code. Specific directives may include but are not limited to directing that the child, parent(s), custodian, or guardian take educational classes, alcohol 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. The Court shall prepare a case plan and shall hold review hearings at least every 90 days.

C. Temporary Custody Orders:

1. Written Orders: The Court shall issue written Orders for all temporary custody cases that shall be given to parties in those cases and kept in the permanent records of the Nenana Tribal Court.

2. Short Versions of Orders: The Court may issue a short version of Temporary Custody Orders for the use of verification of custody for schools, hospitals, banks and similar entities when necessary.

3. Extension of Temporary Custody Orders: Custody orders may only be extended if there are review hearings at least every 90 days.

D. Monitoring Cases: The Court may designate specific persons or entities to oversee the execution of the Nenana Tribal Court Order and monitor the family's progress and report such progress to the Court.

E. Contact Information: The parents, foster parents, guardians, or custodians shall keep the Court updated on their physical address and contact

information throughout while the child is in the legal custody of the Nenana Tribal Court.

Section 6. Review Hearings

- A. 90 Day Review Hearings:** Review Hearings for all child protection cases shall be held at least every 90 days while a child is in the legal custody of the Nenana Tribal Court.

- B. Purpose of Review Hearings:** The purpose of review hearings is to update the Court on the progress of the case plan and to determine whether the child should continue to remain a ward of the Court, or if any conditions of the legal or physical custody should be modified or added. After making a decision based upon the child's best interests, the Court shall state any new decisions made in review hearings in a new Order.

- C. Request for Review Hearing prior to 90 days:** While the child is in the legal custody of the Tribal Court, any party may request in writing that a review hearing be held prior to the 90 day timeframe for regular scheduled review hearings. The request must include the reason(s) why the Tribal Court should hold a hearing and the Court may grant or deny the request.

- D. Notice:** All parties to the case shall receive at least a 10 day Notice prior to review hearings which shall state what the hearing is about, and the time, date, and place of the hearing.

Section 7. Permanency Hearings

After a child has been a ward of the Nenana Court for one year, the Court shall move towards permanency placement and shall hold a hearing where at least 30

days notice has been given to all parties and the notice contains what the permanency hearing is about. The Court may move to a permanency hearing in less than one year if there are aggravated circumstances where a preponderance of the evidence demonstrates that the biological parent, guardian, or custodian will not, or cannot make changes necessary for the reunification of the family.

The Court may decide at the Permanency Hearing to:

1. Return the child to the parent(s), or
2. Continue to maintain temporary protective custody and keep the child as a ward of the Nenana Tribal Court if there is compelling reason to continue it such as the parent has made substantial progress toward reunification and it is likely that the child can safely return home in the near future, provided that review hearings are regularly held, and that permanency hearings are held at least every 12 months afterwards, or
3. Proceed with an adoption for the child upon the filing of a petition to terminate parental rights, or
4. Create a legal guardianship, or
5. Make another permanent living arrangement that is in the best interest of the child

Section 8. Failure to Appear in Court

If one or both of the parents, guardians, or custodians are unable to attend a scheduled hearing, they must request to the Nenana Tribal Court in writing or telephonically to continue the hearing until a future date when the parties and the Court are available. If the parents fail to request a rescheduling, the Court may

proceed with the hearing even if parents, custodians, and/or guardians fail to appear in Court.

Section 9. Witnesses

At the temporary custody hearing, review hearings, or permanency placement hearings the parent(s), custodian, and/or guardian shall have the right to call their own witnesses and to question witnesses called by any other party. Judges may question all witnesses.

Section 10. Confidentiality of Child Protection Cases

All child protection cases shall be considered and treated as confidential. All Court Judges, the Court Clerk, tribal employees or other tribal officials who participate in a case, and involved agency personnel shall be sworn to confidentiality under oath. Observers shall not be permitted at the Court proceedings without the express permission of the Tribal Court.

It is the child's right to keep the information of a child protection case in strict confidence. No party, witness or tribal official may communicate about the matters of a tribal court case unless it is to advance the case plan. The party may not publically disclose any information on the case including the fact that the child is in tribal custody.

Section 11. Tribal Court Records of Child Protection Cases

Court records in child protection cases shall not be released to any person or entity besides the parties to the case without the consent of the Nenana Tribal Court. Parties shall not have access to court notes that may be in case files or confidential information regarding others without explicit order of the Nenana. Hard copies of Court records shall be kept behind a two-lock system. Records stored on computer

hard drives or in cyberspace shall be secured. Hard copies or cyber records shall only be accessible by persons directly authorized by the Nenana Tribal Court. Tribal Court files shall not leave the premises of the tribal council office building. Short form Orders, letters, or memos may be given as needed to schools, hospitals, banks, or similar entities for the purpose of verification of who has custody, guardianship, or parental rights to a child. Court records for child protection cases shall be kept indefinitely.

Section 12. Urgency

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

Section 13. Interference with a Custody Order

Anyone who interferes with a Court ordered placement of a child may be found guilty of harassment, assault, kidnapping, or other appropriate charge and subject to penalty by the Nenana Tribal Court, or if the action is in violation of State law, the case may be referred to the State of Alaska for prosecution.

CHAPTER 3

RELINQUISHMENT AND TERMINATION OF PARENTAL RIGHTS

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Section 1. Cases Where Parental Rights May be Terminated

Parental rights may be terminated in whole or in part in 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. It is the policy of the Tribe to view involuntary termination of a parent’s rights as a last resort when it is clear that long-term guardianship is insufficient to meet the needs of the child and an adoption has been arranged.

Section 2. Findings Necessary for Termination of Parental Rights

The Court may terminate parental rights to a child only if it finds that the child is a member of or eligible for membership in the Nenana Tribe, and:

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, and that the termination of the parent’s rights and adoption are in the best interest of that child; or

2. The child has been subjected by his or her parent(s) to sexual abuse;
or

3. The child has been abandoned in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child as determined by the Nenana Tribal Court, or is a 'child in need of protection' as defined in Chapter 2, Section 2 of this Code; or
4. That the Tribe has offered or helped arrange for appropriate resources to help the parent care appropriately for the child, and it is unreasonable to expect that the parent will ever be able to care appropriately for the child; or
5. Where a parent voluntarily consents to the relinquishment of parental rights.

Section 3. Procedure for 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 to that child be terminated. The Petition shall contain the name, address and age of the child; the names and addresses of parents, any custodians of the child, and any other person or tribe with an interest in the child; the reason why the Petitioner believes that parental rights should be terminated; and, any available written evidence to support termination of parental rights. If after reviewing the Petition and scheduling and holding a hearing the Court finds that the conditions necessary to terminate the 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. If the Court finds that the conditions necessary to terminate parental rights do not exist, it shall dismiss the case.

Section 4. Voluntary Relinquishment of Parental Rights

Any parent, 18 years of age or older, may voluntarily relinquish his or her parental rights to any minor child. However, no voluntary relinquishment shall be valid unless:

1. The consent is given more than thirty (30) days after the birth of the child. The child may be placed with the prospective adoptive parents or other care giver during this 30 day period; and
2. The consent is given in writing in the presence of the Tribal Court or to a designated representative of the Tribal Court, and
3. The person has been given a full explanation of what the terms and consequences of consent to voluntary termination of parental rights mean, and the Court makes a finding that the person understood what they were doing and knowingly and voluntarily relinquished their parental rights; and
4. 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.
5. If the parent is a minor, the minor's parents or guardian must also consent.

Section 5. 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 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.

Section 6. Child's Tribal Membership Status

Termination of parental rights shall not affect the minor's tribal membership status, nor the child's rights or privileges as an Alaska Native whether written or unwritten, nor shall it affect the jurisdiction of the Nenana Tribal Court over the child.

CHAPTER 4

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Section 1. General Provisions for Tribal Adoptions

A. Cultural Adoption and Tribal Court Adoptions: The difference between a cultural adoption and a tribal court adoption is that the tribal council does a cultural adoption and all parties have to be in agreement, while a tribal court adoption is done by an order of the Tribal Court. The Nenana Tribal Council may do a ‘cultural adoption’ by completing the cultural adoption paperwork that is provided by the State of Alaska, and submitting it to the Bureau of Vital Statistics for a new birth certificate. The Nenana Tribal Court may do a tribal court adoption by the procedures outlined in this Chapter, and submitting a certified Order of Adoption and report of adoption form provided by the State of Alaska to the Bureau of Vital Statistics.

B. Availability for Adoption: A child may be adopted only if the child's parents are deceased or if parental rights to the child have been relinquished through voluntary consent or involuntarily terminated by Court order.

C. Who may Petition: Any person who is 18 years of age or older may file a petition with the Court to adopt a child. If the petitioner is married, his or her spouse must also be at least 18 years old and must sign the petition, unless the spouse's whereabouts are unknown or unless waived by the Court. A person who wants to adopt a child may request that the Nenana Tribal Court consider the matter by filing a Petition to use the Tribal Court.

D. Placement Preferences: The Court shall consider what is in the best interest of the child in all adoption cases, but shall hold the general policy that Native children be adopted by Native persons and shall follow the placement preference guidelines in Chapter 1, Section 4 of this Code.

E. Adoption Records: All adoption records shall be kept by the Tribe indefinitely in a secured location, and may only be accessed by the persons designated in the Court's record retention and access policy.

Section 2. Contents of Adoption Petition

The Petition to use the Tribal Court shall be accompanied with a complete pre-adoption home study report and criminal background check. The Petition shall include, but not limited to:

1. The name, address and age of the person to be adopted; cultural heritage and tribal enrollment or eligibility; and
2. The names and addresses, if known, of the person's biological parents and any custodians of the person; and

3. The names and addresses of any other person or Tribe with an interest in the adoption proceeding or in the person to be adopted; and
4. Whether the Petitioner has reason to believe that the biological parents of the person to be adopted oppose the adoption; and
5. If the person to be adopted is a minor child, the 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 Court; and
6. A statement of which tribe(s) the person to be adopted is a member or with which tribe(s) the person to be adopted is eligible for membership. If the person to be adopted is a minor child, this statement should include facts that indicate that the Nenana 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 the 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, their present age and occupation, and their cultural heritage; and
11. The names and ages of any children and of any other persons residing with the Petitioner(s).

12. Any evidence of alcohol or drug abuse, or domestic violence within the Petitioner's household.
13. Any other facts and circumstances relating to whether or not the adoption should be granted.

Section 3. Homestudy

The Court may Order a homestudy completed for the proposed adoptive home. The Petitioner(s) may be required to pay costs involved in the homestudy. The homestudy shall include an evaluation of the home for all of the factors for determining the best interest of the child and anything else the Court requires. If the Court has appointed a guardian ad litem, including a Tribal Family Youth Specialist or tribal social worker to look after the best interest of the child, the homestudy shall state what recommendation the guardian ad litem makes regarding the granting of the Adoption Order. The Homestudy shall be submitted to the Court with a Petition for Adoption.

Section 4. Adoption Hearing and Adoption Order

The Court shall set a hearing date within 40 days after a Petition accompanied by a homestudy report and criminal background check is filed. The Court shall send a copy of the Petition to all parties and shall give all parties at least 20 days Notice. Biological parents shall be notified unless their parental rights have been terminated or voluntarily relinquished. The hearing shall be closed and only those persons the Court finds to have a legitimate interest in the proceedings may attend. The hearing shall generally follow the procedures set forth in Chapter 2 of the Nenana Judicial Code. The Court may issue a tribal Court Order of Adoption if it finds the following things:

1. The biological parents have consented to the adoption or have had their parental rights terminated in Tribal Court or the Court of any other jurisdiction, or have voluntarily relinquished their parental rights, or are unavailable after diligent efforts to locate them have been made, to consent to the adoption; and
2. If the person to be adopted is 14 years old or older and he or she consents to the adoption and appears in Tribal Court to assure the Court of their consent. If the child does not consent to the adoption, the child has the right to appear in court, testify that they do not consent, and the Court shall not grant the adoption; and
3. If the person to be adopted is a minor child, the Court finds that it is in the child's best interest as defined in Chapter 1, Section 3 of this Code, to be adopted by the Petitioner(s).

Section 5. Open Adoptions

A. Visitation: The Court may require that specific persons with whom the child has emotional or blood ties shall have contact with the child, including biological parents. Contact includes sending letters, gifts, phone calls, and electronic communication. Physical visitation shall only occur with the consent of the adoptive parent, but shall not be denied unless it is in the best interest of the child to do so. Information concerning specific details of such contact shall be incorporated into the adoption Order.

B. Open records: It is the policy of the Nenana Tribal Court that children who have reached the age of 18 and were adopted through the Nenana Tribal Court have access to the tribal court records of their adoption, provided that a biological parent has not enclosed a signed and notarized affidavit stating that the records remain sealed indefinitely. Even in the case of a signed and notarized affidavit, the

Nenana Tribal Court may allow the records to be opened for good cause such as to trace a potentially fatal genetic condition.

Section 6. Effect of Adoption Order

The Nenana Tribal Adoption Order creates the relationship of parent and child between the Petitioner(s) and the adopted person, including the right to inherit. The Adoption Order does not terminate the child's right to inherit from their biological parent(s). An Order of Tribal Adoption does not affect the child's tribal membership status or the child's rights or privileges as an Alaska Native whether written or unwritten, nor shall it affect the jurisdiction of the Nenana Tribal Court over the child.

Section 7. Birth Certificates

The tribal court clerk shall assist with filing the proper paperwork with the State of Alaska Bureau of Vital Statistics, and the adopting parent shall be responsible for paying the \$50 fee required for issuing the new certificate. The State of Alaska provides forms for obtaining a new birth certificate following a tribal court adoption. A certified copy of the tribal court Order of Adoption must be submitted with the form.

CHAPTER 5
GUARDIANSHIP OF MINORS

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Section 1. General Provisions for Guardianship

- A. Definition of Guardianship:** “Guardianship” means a legal relationship assigned by the tribal court whereby the guardian has the duty and responsibility care for a minor child and to make legal, financial, health and education decisions for a minor child until they reach the age of 18

- B. Tribal Policy:** It is the policy of the Nenana Tribal Court that reunification of families is the first and highest goal in child placement, and if this is not possible,

that young children under the age of 14 be given permanency through adoptions. The third choice for placing children, preferably those 14 and older, is in long term guardianships.

- C. Placement Preference:** When tribal children are placed under a guardianship, the Nenana Tribal Court shall follow the child placement preferences outlined in Chapter 1, Section 4 of the Code.

Section 2. Petition for Guardianship

A. Who may file: A person at least 18 years old may file a petition with the Nenana Tribal Court requesting that he or she be appointed as the long-term guardian of a child. If the person is married, the spouse must be at least 18 years of age, and must also sign the petition.

B. Contents of Petition: A Petition for a long term guardian shall include:

1. The name, birth date, residence, and tribal status of the child who is the subject of the Petition;

2. The name, birth date, residence, and tribal status, if known, of the child's parent(s) and of the petitioner(s);

3. If the child is residing with someone other than a parent, the location and length of time at that location;

4. A statement by the petitioner(s) of the facts and reasons supporting his or her request to be appointed as a guardian.

Section 3. Background Check, Homestudy and Other Information

The Court shall require a background check, and a complete home study report including information as to the petitioner's financial ability to support the child to be filed with a Petition for Guardianship. Additionally, the Court may accept information from any person with knowledge about the potential guardian, and their recommendation as to the suitability of the guardian.

Section 4. Guardianship Hearing

A. Setting the Hearing and Notice: When the Court receives the Petition, it shall set a hearing date not more than 40 days after receiving it, unless continued for good cause. Notice of the hearing shall be served at least 20 days prior to the date of the hearing to any biological parents, petitioner, to the youth if the youth is at least 14 years of age, and to any parties the Court or parties deem necessary for the hearing.

B. Purpose of Guardianship Hearing: The Court shall conduct the hearing to determine whether appointment of a guardian is in the best interest of the youth.

C. Hearing Procedure: The Guardianship hearing shall follow the general procedures of Nenana Tribal Court hearings, and shall be private and closed. Only those persons the Nenana Tribal Court determines to have a legitimate interest in the proceedings may attend. The Court shall hear testimony to determine whether a long-term guardianship is in the best interest of the child. The Court shall consider all guardianship reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the guardianship reports and testimony.

Section 5. Grounds for Appointing a Guardian

If the Nenana Family Court finds that the child is without care or custody, that the petitioner(s) can provide appropriate and adequate parental care for the child, that the guardianship is in the best interest of the child, and that the placement falls within the guidance for child placement in Chapter 1, Section 4 of this Code, it shall order long-term guardianship pursuant to the Petition. The Court must have clear and convincing evidence that:

1. The parent(s) have consented in writing to the guardianship; or
2. The youth is a child in need of protection as defined in Chapter 2, Section 2 of this Code

Section 6. Limitations to and Powers of the Guardian

The Court may define or limit the powers of the Guardian. If the Court does not define or limit the power of the guardian, the guardian has all the rights and responsibilities of a parent except that the following shall require Court approval:

1. Dispose of any real property or tribal benefits the child has
2. Approve sterilization of the child
3. Enroll the child to another tribe that they wouldn't otherwise be eligible for without the express permission of the Nenana Tribal Court.
4. Move outside the State of Alaska
5. Place the child in another home or with any agency
6. Consent to any adoption of the child under any court other than the Nenana Tribal Court.

Section 7. Change of Address

Guardians shall always have a valid address and contact information on file with the Nenana Tribal Court, and shall notify the Court in writing of any change of address.

Section 8. Visitation

The Court may order visitation between the youth and parent(s) or any other person if the Court finds such visitation is in the best interest of child, with specific recommendations regarding the safety of the child in such visitation.

Section 9. Court Review of the Guardianship

The Court shall order yearly or more frequent review of the guardianship.

Section 10. Child's Assets

A. Existing Trusts: If the child's property is subject to a trust (for example, where a parent has died leaving property to a child in a trust set up in the will), the guardian is bound by the trust provisions. The Court has the power to review any trust in connection with appointment of a guardian and to impose any protections necessary to enforce the trust, to ensure that the guardian fully and regularly accounts for trust funds, and to see that the funds are properly managed.

B. Removal of a Guardian for a Child's Property: The Court has the power to remove a guardian for a child's property and appoint a replacement guardian whenever necessary for the child's best interest.

C. Upon reaching 18: When a child whose property is in the guardianship reaches the age of 18, he or she may petition the Court to terminate the guardianship and

enter such orders as may be necessary to place him or her in control of his or her property and earnings.

Section 11. Termination of Guardianship

A. Generally, a long-term guardianship shall terminate upon the death, marriage, emancipation, adoption, 18th birthday of the child, or upon graduation from high school (unless continued by the Court) or upon order of the Court.

B. Upon the Petition of a parent of a child in long-term guardianship, the child may be returned to the parent, after notice and a hearing, upon a showing by clear and convincing evidence that the parent is willing and able to resume permanent care of the child and that the return to the parent is in the best interest of the child.

C. The Nenana Tribal Court may terminate the Guardianship if the Guardian has caused the child to be a child in need of protection as defined in Chapter 2, Section 2 of this Code.

CHAPTER 6
CHILD CUSTODY ARRANGEMENTS

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Section 1. Custody Arrangements and Best Interests of the Child

Parents have the responsibility to make decisions and perform other parental functions necessary for the care and growth of their minor children. In any proceeding between parents under this Chapter, the best interest of the child shall be the standard by which the Tribal Court determines and allocates parental responsibilities. The Tribe recognizes the fundamental importance of the parent-child relationship and that the relationship between the child and each parent should be fostered unless inconsistent with the best interest of the child. The best interests of the child are served by a parenting arrangement that best maintains a child’s emotional growth, tribal and cultural ties, health and stability, and physical care.

Section 2. Beginning a Child Custody Arrangement Case

A Child Custody Arrangement Case involves children who are not 'in need of protection' as defined in Chapter 2, Section 2 of this Code. The Nenana Court may hear cases involving custody disputes between parents to decide what custody arrangements shall be made. The Nenana Court may also hear cases when parents agree on a custody arrangement plan and wish to have the Nenana Court certify the plan through a Court Order. A child custody case shall be started by filing a Petition to use the Tribal Court for Child Custody by one or both parents.

Section 3. Contents of Child Custody Petition

The Petition for child custody shall provide the following information:

1. The name, address and age of the child; and
2. The names and addresses of the child's parents and any custodians of the child; and
3. The names and addresses of any other person or tribe with a specific interest in the child; and
4. The reason the Petitioner is requesting custody of the child, or for the Court to Order custody arrangements agreed upon by parents, guardians, and/or custodians 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 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; and

7. The Court may require a home study, background check, and other additional information to accompany the Petition.

Section 3. Determining jurisdiction and whether or not to hear a case

Upon receiving a Petition for Child Custody Arrangement, the Court shall determine whether or not it has jurisdiction over the child or children, and whether or not the Court wishes to hear that case. If the Court decides not to hear the case, the Court Clerk shall notify the Petitioners within 10 days after the decision.

Section 4. Custody Hearing Notice and Hearing Purpose

A. Custody Hearing Notice: After the Court determines that it has jurisdiction and wishes to hear a custody arrangement case, the court shall schedule a hearing and issue a Notice of Hearing to the parent(s), custodian, or guardian of the child, and to any parties that the Court determines to have a significant interest in the Child, at least thirty days prior to the hearing, or as soon as is reasonable and agreed upon by the Court and to all Parties in the case. The Notice shall state the purpose of the hearing, which 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.

B. Witnesses and Evidence: At the custody hearing, all parties shall have an opportunity to present evidence and to question all witnesses. The Court shall consider the information provided in home studies, background checks, and may call any person with knowledge of the parents or children to speak to the Court. A guardian ad litem may speak on behalf of the child, and children at least 12 years of age may speak to the Court directly. The Court may also order an investigation of the facts contained in a Petition, report, affidavit, or testimony.

C. Attorneys in the Nenana Tribal Court Room: Parties may hire their own attorneys at their expense. Attorneys may submit written documents to the Court, and may be in the Nenana Tribal Court proceeding, provided that they may speak with their clients but not directly to the Tribal Court without express permission of the Nenana Tribal Court Judges serving on the case.

D. Custody Decisions: If both parents agree on a Child Custody Arrangement, the Court shall confirm the Arrangement in an Order of the Court, if the Court determines it to be in the best interest of the child. If parents do not agree on a Custody Arrangement, the Court must decide what the arrangement shall be based on the best interest of the child. Unless it is shown to be harmful to the child, the child shall have reasonable equal access to both parents, and determine a reasonable visitation schedule, and details about associated costs of visitation, types of contact, and any other information specific to visitation that is in the best interest of the child.

Section 5. Existence of Domestic Violence and/or Drug Abuse:

If the Court finds by clear and convincing evidence that a parent or child is a victim of domestic violence, and/or subject to drug abuse, the Court may make an Order that adequately provides for the safety of the victimized parent including any of the following:

1. The address and contact information of the parent or child be kept confidential in the proceedings;
2. An exchange of the child to occur in a protected setting;
3. Visitation be supervised by another person or agency with any conditions of visitation stated specifically within the Order. The perpetrator may be ordered to pay a fee to defray the costs of supervised visitation;
4. The perpetrator of domestic violence attend and complete a domestic violence batterer's program and/or counseling;

5. Prohibit overnight visitation;
6. Order that the perpetrator of domestic violence not remove the child from a certain area or community during visitation.

Section 6. Custody Order and Request to Change Order

A. Custody Order: The Court shall issue their decision of Custody arrangement, physical custody and visitation arrangements, through a written Order.

B. Request to Change Order: A parent may request an award of custody of a child or visitation with a child to be modified by filing a Petition to use the Tribal Court form, if new information or a new situation arises that the Court should consider for protecting the best interest of the child through an amended Custody Arrangement. It is up to the discretion of the 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. Any new decisions of the Court shall be made through a new Custody Order.

Section 7. Child Support

The Court may 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. The Court may also work with the Alaska State Court system in ordering and enforcing child support payment.

CHAPTER 7

TRIBAL FOSTER HOME LICENSING

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Section 1. Purpose

The purpose of this Chapter is to insure the best and safest quality of care for the children of the Tribe who are placed in foster homes.

Section 2. Specific Authorization

A. The Tribal Court may approve or disapprove the licensing of foster homes and may also approve state licensing of foster homes for children. The Tribal Court may also revoke tribal foster home licenses for good cause.

B. The Tribal Court may authorize designees to act on behalf of the Court. Such authorization shall be specific in terms of who may act in place of the Court and what their specific authorization is. Designees shall report actions to the Court at a minimum of once a month.

Section 3. Qualifications of Foster Parents and Others in the Household

A. A foster parent must demonstrate that he or she is a responsible, stable, and emotionally mature individual of reputable character who uses sound judgment.

B. A foster parent must have sufficient income or resources, which may include subsistence, to maintain an adequate community standard of living for his or her own family, independent of standard foster care payments.

C. All members of the household must be free from contagious communicable disease, and other serious physical and mental health problems including abuse of children, domestic violence, and excessive use of alcohol or other drugs to the extent that it causes personal or family problems or is detrimental to the health and well-being of the children in care. A foster parent shall, upon request, provide references from a health or mental health professional attesting to the individual's freedom from these conditions and the individual's capacity to provide care.

D. Foster parents not residing in Nenana must have at least two personal or community references to attest to their character and ability to successfully care for children. Any other adult living in the home must also provide two positive personal references.

E. The Tribal Court may waive the requirement of references if the foster parents have lived in Nenana, and if the Court members feel that they adequately know the foster parent. If the foster parents live in Nenana, they do not need to provide references unless requested to do so by the Tribal Court.

F. The Tribal Court shall review tribal and any state provided child and dependent adult protection records, previous foster care records, and local, state and federal law enforcement arrest and conviction records for all adult members of the household. To carry out this review, the applicant's signature on the application constitutes consent for the Tribe's review of these records. If the review shows a conviction of a crime of violence that poses a risk of harm to a child, the foster home license may be denied or revoked.

Section 4. Responsibilities of Foster Parents

A. A foster parent shall participate with the Court or involved agency (e.g. Tribal Council or State of Alaska OCS or other social service agency) in the development of the child's placement plan, and in defining specific areas in which the foster parent can provide therapeutic parenting.

B. A foster parent must demonstrate respect for the foster child's own family and shall work with the child's family members as indicated in the child's placement plan.

C. A foster parent shall treat foster children fairly and equally with their own children.

D. A foster parent shall maintain confidentiality of information about a foster child and the child's family. No foster parent may disclose information concerning a foster child when not consistent with the placement plan.

E. No member of a foster home may physically abuse, sexually abuse, emotionally abuse, financial abuse, or neglect a child or allow these acts to occur.

Section 5. Training

Except under an emergency license, foster parents shall complete a foster care orientation approved by the Tribal Court.

Section 6. Supervision of Children

A. A foster parent shall ensure that the child shall receive responsible supervision appropriate to the child's age and stage of maturity.

B. A foster parent shall within reason, prevent exposure of the child to individuals and situations known to be a danger.

C. A foster parent shall request approval from the Tribal Court and any involved agency at least 30 days in advance of any planned trips for the child outside of the state.

Section 7. Discipline

A. A foster parent shall train and discipline children with kindness and understanding. A foster parent shall establish clear, consistent, and realistic expectations and limits of behavior.

- B. A foster parent may not allow a child in care to be:
1. subjected to verbal abuse, to derogatory remarks about himself or herself or members of the child's family, or to threats to expel the child from the foster home; or
 2. deprived of family contacts, meals, or mail as a method of discipline; or
 3. placed in a locked room; or
 4. punished through use of corporal punishment; or
 5. punished for bedwetting or actions in regard to toilet training; or
 6. physically restrained except to protect infants from accident or except when necessary to protect the child from inflicting injury to himself or herself or another, and then mechanical restraints may not be used; or
 7. denied or required to participate in religious services as a form of discipline, or
 8. Any disciplinary action as deemed as inappropriate by the Nenana Tribal Court.

Section 8. Foster Children's Work, Income, and Conservatorship

A. A foster parent shall give a child in care the opportunity to learn responsibility for household duties or chores appropriate to the child's age, health, and ability. A foster parent shall ensure that the duties or chores are shared evenly with other children of the foster home, and do not interfere with school, health, and necessary recreation.

B. A foster parent shall consider money earned, dividends, money received as a gift or received as an allowance by a child as the child's personal property, provided that dividends may be put in a trust fund for the child until the child reaches 18.

C. The Court may act as or appoint a conservator to protect the financial interest of a child who is placed in foster care.

Section 9. Religious, Cultural and Ethnic Heritage

A. A foster parent shall recognize, encourage, and support the religious beliefs, ethnic and cultural heritage, and language of a child's birth parents.

B. A foster parent shall respect the expressed religious preference of the birth parents for their child.

Section 10. Nutrition

A. A foster parent shall provide food to the child in such quantity and variety as to satisfy the child's appetite and also provide for essential nutrition and dietary needs. Where possible, the foster parent shall provide the traditional foods for the child.

B. A foster parent may not prohibit a child from having local Native foods provided by the child's family, unless it is determined to be medically inadvisable by the child's health care provider. If a child is prohibited from having Native foods, the Court shall be informed of both the prohibition and the reason for the prohibition.

Section 11. Clothing, Personal Belongings, and Appearance

A. A foster parent shall provide each foster child with his or her own clean, fitting, attractive, seasonal clothing appropriate to age, sex, and individual needs.

B. A foster parent shall permit the foster child to participate in the selection of clothing insofar as the choice relates to the child's age and development.

C. A foster parent shall allow the foster child to bring and acquire personal belongings.

Section 12. Health

A. A foster parent shall ensure that each foster child receives a medical examination and is provided continuing medical and dental services as needed and authorized by the Tribal Court and involved agency.

B. A foster parent shall ensure that each foster child three years of age or older is given a dental examination at least once a year by a licensed dentist and provided treatment as needed.

C. A foster parent shall ensure that each foster child is given immunizations appropriate to the child's age.

Section 13. Reports

A. A foster parent shall report within 24 hours to the Tribal Court and any involved agency the following incidents when they occur in, or are related to, the foster home:

1. the death of any child living in the home;
2. attempted or threatened suicide by any child living in the home;
3. a serious illness or accident to a foster child;
4. information that a foster child has been abused or neglected whether in or outside the foster home;
5. A foster child's unapproved absence from the home for six or more hours;

6. an emergency absence of a foster parent for a period of 24 hours or longer;
7. a criminal investigation of a foster parent or other members in the foster home; and
8. a fire or other disaster.
9. if a child is involved in any illegal activity.
10. any incident where the child is severely distressed or seriously depressed
11. that a child has become pregnant.

B. A foster parent providing foster care shall report to the Tribal Court and any involved agency the event of a permanent departure of an adult member of the household.

C. If the foster home family plans to move from their home, a foster parent must notify the Tribal Court and any involved agency as soon as possible, but no later than 30 days before the planned move.

Section 14. Foster Home Construction and Maintenance

A foster parent shall ensure that the foster home is arranged and maintained to provide adequately for the health and safety of all occupants. It must be large enough to provide sufficient space for both the family and the foster children, and be furnished and equipped to accommodate them comfortably in keeping with community standards.

Section 15. Sleeping Arrangements

A foster parent shall provide adequate sleeping space for the children in the home.

Section 16. Fire Safety

A. A foster home must be determined to be free of unreasonable fire hazards. A designee of the Tribal Court shall inspect the home prior to licensing to determine whether the home is in compliance with this Section. The home must contain one fully charged dry chemical 2 A:10 BC fire extinguisher strategically located on each level of the home.

B. All flammable liquids and hazardous substances shall be properly stored in foster homes.

C. A foster parent must have heating appliances that are not placed or located in sleeping quarters during sleeping hours or in exit ways or corridors at any time. They must be vented to the outside to discharge smoke and combustion gases, if the appliances are fuel burning.

D. A foster parent shall ensure that a foster home has:

1. one or more smoke detection devices; the devices must be strategically located, operational, and monitored battery or AC primary powered;
2. at least two exits remote from each other providing unobstructed exit to the outside of the building.
3. developed an evacuation plan and the child understands the procedures.

Section 17. Environmental Health and Safety

The foster home shall be environmentally healthy and safe prior to licensing. A designee of the Court shall inspect the home prior to licensing to determine whether the home is safe and free of hazards that can cause injury or diseases.

Adequate ventilation is required if smoking occurs in a foster home. A foster parent shall ensure that firearms are unloaded and stored in a secured place reasonably inaccessible to all children, and that ammunition is stored separately in a secured place, reasonably inaccessible to children. Any keys to secured storage of firearms, trigger guards, and ammunition are to be on the foster parent's person or reasonably secure from children.

Section 18. Application

- A. An applicant shall use a form provided by the Tribal Court to apply for a child foster home license.
- B. If the household is headed by two adults acting as head of the household, both shall apply together for the foster home license.
- C. It is up to the discretion of the Tribal Court to issue a tribal foster home license.

Section 19. License

- A. The Tribal Court may issue a license, deny a license, or revoke a license.
- B. Licenses are applicable for a 2 year period with a review required at the 1 year mark. Licenses may be renewed by the Tribal Court.

Section 20. Waiver of Requirements

- A. The Court may waive any requirement of this Chapter if an alternative method of satisfying the intent of the requirement is consistent with community, ethnic and cultural standards and the safety and well being of children are not endangered.

B. A waiver granted under this Section is effective for the time the license is in effect or for a shorter period set by the Court and may be renewed.

Section 21. Complaint Investigations

The Tribal Court shall investigate complaints and allegations of noncompliance with these licensing provisions and issue a report of findings to the foster home. The Court shall report to the State any report of harm to a child and may participate in a joint investigation.

CHAPTER 8

DOMESTIC VIOLENCE

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Section 1. Definitions

“**Domestic Violence**” means assault, threats of violence, or physical, sexual, or mental abuse of a person when the victim is a spouse, a former spouse, an extended family member, a boyfriend or girlfriend, or any other person who has been an intimate partner, or a member of the social unit made up of those living together in the same dwelling as the victim or perpetrator.

“**Petitioner**” shall be the person who actually files a petition to the tribal court requesting a Protection Order.

“**Respondent**” shall be the perpetrator of domestic violence.

“**Parties**” shall be the Petitioner, the victim if other than the Petitioner, and the Respondent.

Section 2. Cooperative Enforcement of Protective Orders

In accordance with the full faith and credit provision of the Violence Against Women Act, 18 U.S.C. Section 2265, the Nenana Tribal Court shall recognize protective orders issued by states or other tribal governments. The Nenana Court shall forward a certified copy of any active tribal protective orders to the Alaska State Court system for registration in the statewide protection order registry. Any valid protective order issued by the State of Alaska, another state, or another tribe shall be accorded full faith and credit by the Nenana Tribal Court.

Section 3. Beginning a Case

A person who has been subjected to domestic violence as defined in Section 1 of this Chapter, or any person who has knowledge of domestic violence committed against a person who is unable or unwilling to petition the Court, may request a domestic violence protection order from the Tribal Court. The person shall make the request by filing a Petition to use the Tribal Court form. The person who files such a petition shall be called the petitioner.

Section 4. Contents of the Petition to Use the Tribal Court

In domestic violence cases, the Petition to Use the Tribal Court shall contain the following information:

1. The name, address and age of the person to be protected; and
2. The names and addresses if known of the person's custodians, if any; and
3. The names and addresses of any other person or tribe with an interest in the domestic violence proceeding; and

4. Whether the Petitioner is the victim or whether some other person is the victim, and if so, the Petitioner's relationship to the person to be protected; and
5. The facts that make it necessary for the person to be protected; and
6. The relief requested by the Petitioner.

Section 5. Emergency Hearing for Temporary Protective Orders

In immediate emergency circumstances, the Court may hold an emergency hearing to consider the issuing of a temporary protective order. If the Court finds that the Petitioner, or victim if other than the Petitioner, has been subjected to domestic violence, it may grant a temporary protective order under this Section without written or oral notice to the Respondent so long as it appears that there is a substantial likelihood of immediate danger from the Respondent to the health, safety, or welfare of the victim or a member of his or her household from the Respondent and a reasonable attempt has been made by the Nenana Tribal Court to notify the Respondent of the hearing to issue a Temporary Protective Order. This Temporary Protective Order shall remain in effect for 20 days after it is issued unless dissolved earlier by the Court, after a hearing is held and notice provided to the Parties of the hearing to consider the dissolution of a temporary protective order. To replace this temporary protective order with a final protective order, the court shall notify the Parties at least 10 days before a hearing is held to consider the matter, and give those persons the right to respond and appear at the hearing either in person or telephonically.

Section 6. Hearing for Final Protective Orders

A hearing shall be held within 20 days of the granting of a temporary protective order to consider the issuing of a final protective order. The Court shall provide notice to the Parties at least 10 days prior to the hearing. The hearing may proceed regardless of whether or not the Respondent participates. The Court may order a

final protective order if the Court finds a preponderance of evidence that the Respondent has committed an act involving domestic violence against a victim. A final protective order granted at a hearing shall be in effect for up to 6 months from the date of the hearing, unless the Court determines that for safety reasons, it is in the best interest of the Tribe to grant the protective order for a longer period including up to life of the person/s being protected.

The order may be extended for up to another 6 months upon request of the Petitioner or victim if other than the Petitioner, and after another hearing is held indicating that it is necessary to extend the order to protect the victim or a person residing with the victim. Notification of such a hearing shall be given to the Parties at least 20 days in advance.

Section 7. Contents of Protective Orders

At either an emergency hearing for a temporary protective order or at a hearing for a final protective order, the Court may decide that a temporary or final protective order contain any of the following:

1. Banishment of the Respondent from the Village;
2. That the Respondent be restrained from threatening to commit or committing domestic violence, stalking, or harassment;
3. That the Respondent move out of the home of the victim, regardless of the ownership of the residence;
4. That the Respondent not communicate directly or indirectly with the victim (this may include no telephone calls, letters, or in-person contact, depending upon the Court's Order);
5. That the respondent not enter any propelled vehicle in the possession of or occupied by the petitioner;
6. That a peace officer accompany the victim to the victim's residence to obtain property or children if the victim has custody of the children;

7. An award of temporary custody of the minor child(ren), with a possible visitation provision with a minor child if the safety of the child and the victim can be protected;
8. If visitation is allowed, the Court may order visitation under specific conditions;
9. That the victim have possession and use of vehicles and other essential personal items, regardless of ownership of the items;
10. That a Respondent pay support to a victim or for a minor child in the care of the victim if the Respondent has a legal obligation to support the child;
11. That the Respondent pay medical or other expenses of the victim that resulted from domestic violence by the Respondent;
12. That the Respondent engage in personal or family counseling; substance-abuse counseling or treatment, or a program for the rehabilitation of perpetrators of domestic violence, or a combination of these;
13. That the Respondent be prohibited from consuming controlled substances;
14. That the Respondent stay away from a victim who is boarding a boat, aircraft, or any other motor vehicle.

Section 8. Dissolving or Modifying Temporary or Final Protective Orders

If any of the Parties wishes to dismiss or change an existing temporary or final protective order in any way, he or she must file a Petition to use the Tribal Court form specifically requesting the change. The Tribal Court shall then schedule a hearing only the Court finds that the request has merit. If the Court chooses to hold a hearing to consider the dissolution or modification, it shall do so within 3 days for temporary protective orders and within 20 days for a final protective order, with reasonable notification of the parties.

Section 9. Violation of a Protective Order

If the Respondent violates any part of a temporary or final protective order, he or she shall be charged with contempt of court and subject to appropriate penalties available to the Court, and may also be prosecuted through Alaska State Court system.

Section 10. Rights of Victims of Domestic Violence

A victim of domestic violence is entitled to but not limited to the right to:

1. Be informed of all hearing dates
2. Be present at all hearings of the Tribal Court on the matter
3. Advise the Court on conditions required to ensure his or her safety
4. Receive restitution for losses sustained as the direct result of the domestic violence

CHAPTER 9

MARRIAGES

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Section 1. Tribal Policy

It is the policy of the Nenana 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 Nenana Tribal Court shall file a Petition to use the Tribal Court form. Marriages performed by the Nenana Tribal Court are subject to the following requirements:

- A. Both parties must be at least 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 18.

- B. A filing fee of \$100 shall be paid to the Nenana Tribal Court, or the Court may waive the fee upon a finding that both parties are destitute.

- C. Both parties must attest that they are not currently married.

- D. Marriages conducted by the Nenana Tribal Court are a privilege and not a right. The Court shall have discretion to decline to perform a marriage for any reason, including if the Tribal Court finds that the marriage is inconsistent with the custom law of the Nenana Tribe.

- E. Following the marriage ceremony in the presence of at least 2 attending witnesses, the Court shall issue a marriage license.

- F. The Tribal Court Clerk shall keep a public record of all marriage licenses and certificates issued.

CHAPTER 10
DIVORCES AND ANNULMENTS

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Section 1. Divorces

Divorce proceedings shall begin with a filing of a Petition to use the Tribal Court. 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 Nenana Tribal law. The Court shall have the option to issue any Order that it finds appropriate, including, but not limited to the following:

- A. Where the 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.

- B. Where the 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.

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. A marriage performed by the Tribal Court may be annulled where the Tribal Court finds any of the following grounds:

- A. The marriage was the result of fraud or duress.

- B. One of the parties was of unsound mind at the time of the marriage.
- C. There was failure to consummate the marriage.
- D. The marriage violated any applicable written law or any unwritten custom law of the Nenana Tribe.

CHAPTER 11
NAME CHANGES

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Section 1. Order of Name Change

The Nenana Tribal Court shall have 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. It is up to the discretion of the Court to proceed with the name change or not. The Court may charge a fee for the Petitioner to use the Court for name change purposes, and for costs associated with filing the name change with the Alaska Division of Vital Statistics.

CHAPTER 12

Protection for the Elders and Vulnerable Adults of the Nenana Tribe

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Section 1. Policy, Purpose, and Enforcement

- A. **Policy:** It is the traditional way of the Nenana Tribe to honor and respect the Tribal Elders. The Elders of the Nenana 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 Nenana Tribe to protect tribal Elders. It is also in the best interest of the Tribe to protect vulnerable tribal members.

B. **Purpose:** The purpose of this Ordinance is to protect Elders and vulnerable adults within the jurisdiction of the Nenana Tribe from abuse as defined in this Ordinance. This Ordinance shall be liberally interpreted in order to achieve its purpose. This Ordinance provides for:

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

C. **Enforcement:** The Nenana Tribal Court shall be the primary enforcer of this Ordinance, provided that the Nenana Tribal Court may enter into agreements with other courts of competent jurisdiction for enforcement when circumstances warrant such cooperation.

Section 2. Application of this Ordinance

This Ordinance is civil in nature. This Ordinance applies to Tribal Elders and to any adult tribal member of the Nenana Tribe should circumstances as defined by this Ordinance warrant. Any section or portion thereof containing the word “Elder” shall be liberally construed to include and mean or other “vulnerable adult” as defined by Section 3 of this Ordinance.

Section 3. Definitions

In this Ordinance the following words shall have these meanings:

“Abuse” is intentional or negligent infliction of bodily injury, sexual or emotional abuse, unauthorized and/or improper use of funds, property or other resources of an Elder, neglect, unreasonable confinement, intimidation or cruel punishment of an Elder resulting in physical harm or pain or mental anguish by any person, including anyone who has a special relationship with the Elder such as a spouse, a child, or other relative recognized by the Tribal Council as a caretaker. Abuse is also interfering with delivery of necessary services and resources, failing to report abuse or neglect of an Elder by any person, and failing to provide services or resources essential to the Elder’s practice of his customs, traditions, or religion.

“Elder” Is a senior citizen of the Nenana Tribe who is recognized as such by the Nenana Tribe

“Incapacity” is the current inability or functional inability of a person to sufficiently understand, make, and communicate responsible decisions about himself as a result of mental illness, mental deficiency, physical illness or disability, or chronic use of drugs or liquor, and to understand the consequences of any such decision. Incapacity may vary in degree and duration and shall not be determined solely on the basis of age.

“Protective Placement” is the placement of an Elder in a hospital, nursing home, residential care facility, or with a different Native family or person in the Village, or transfer of the Elder from one such institution to another with the Elder’s consent or appropriate legal authority.

“Protective Services” are services provided to an Elder with the Elder’s consent or with appropriate legal authority and include, but are not limited to, social case work, psychiatric and health evaluation, home care, day care, legal assistance, social services, health care, case management, guardianship, conservatorship, and other services consistent with this Ordinance. It does not include protective placement.

“Reporter” is someone who notifies the Nenana Tribal Court of a suspected abuse of an Elder or vulnerable adult.

“Retaliation” is threatening a reporter of Elder abuse or the reporter’s family in any way, causing bodily harm to the reporter or the reporter’s family, causing the reporter or any of the reporter’s family to be reprimanded by an employer, terminated from a job, suspended from general assistance, or damaging the reporter’s or the reporter’s family’s real or personal property in any way.

“Vulnerable adults” are those persons over 18 who are mentally or physically incapacitated by physical conditions or by drug or alcohol induced conditions.

Section 4. 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 Nenana Tribe and subject to fine under Section 6 of this Ordinance. The following people are required to report cases of suspected abuse or neglect of an Elder to the Nenana Tribal Court.

1. The Elder’s family or caretaker,
2. Any tribal employee including the Tribal Administrator and Tribal Family Youth Specialist and Village Public Safety Officer,

3. Any tribal elected official,
4. Any employee of a tribally owned business, even if not managed by the Tribe,
5. The Village Health Aide,
6. Any medical doctor or dentist, nurse, physicians assistant, human services worker, or Elder service provider,
7. Any person or agency or employee of such agency with a fiduciary duty to the Elder such as a lawyer, accountant, financial institution, property manager, or conservator,
8. Any person who has good reason to suspect that an Elder had been or is being abused or neglected.

Section 5. 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 Ordinance is confidential and shall not be released to any person unless the reporter consents to the release because it would 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 Ordinance.

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

Any person who is required by this Ordinance to report suspected Elder abuse and fails to do so is subject to a fine of up to \$500.00 if found guilty by the Nenana 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 \$500.00 if found guilty by the Nenana Tribal Court. If a person retaliates for the reporting of a suspected case

of Elder abuse, the Nenana Tribal Court may utilize the full range of sentencing options at its discretion.

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

The Nenana Tribal Court shall determine whether Elder abuse has occurred. The determination shall be made only after petition of suspected abuse is filed, an investigation takes place, notice of a hearing is given to all parties, a Nenana Tribal Court hearing is held, and the Court finds proof that is clear and convincing. However, the 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.

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

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

B. Investigation: Investigators, who are appointed the Nenana Tribal Court, shall gather information and file a report with the Court containing the following information:

1. The Elder's name, address or location, telephone number;
2. The name, address or location, telephone number of the person(s) who is suspected of abusing the Elder;

3. The nature and degree of incapacity of the Elder;
4. The name, address or location, telephone number of witnesses;
5. The name, address or location, telephone number of the Elder's caretaker;
6. A description of the acts which are complained of as abusive; and
7. Any other information that the investigators believe might be helpful in establishing abuse.

C. Notice and hearing: Notice and hearing procedures shall be the same for suspected Elder abuse cases as they are for other Nenana Tribal Court Cases.

Section 8. Elder Protective Services and Placements

A. Funding of Protective Placements and Services: Protective services or protective placements shall be provided on either a voluntary or involuntary basis. Such services and placements shall be provided, subject to available funding and resources, and only as determined necessary by the Nenana 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.

B. Voluntary Placements and Protective Services: Protective services or placements may be provided on a voluntary basis by the Nenana Tribal Court when requested by any abused Elder and the Court finds the Elder to be in need of such services or placement. The Court shall act on such petitions within 10 days. 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 Nenana Tribal Council. The Council shall develop a written plan for the delivery of Elder protection services.

C. Involuntary Protective Placement and Services: Upon an Order of the Nenana Tribal Court, involuntary protective services or placement shall be provided to any Elder who is incapacitated or who is abused.

Section 9. Emergencies

A. Emergency Action: The Nenana Tribal Court may act without going through the process outlined in Section 7 when emergency circumstances exist. The 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,
2. is incapacitated and cannot consent to protective services, or
3. an emergency exists

B. Maximum length of time for emergency order: The emergency protection order shall be issued for a maximum of 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.

C. Forcible entry: The Nenana Tribal Court may authorize a forcible entry to enforce the emergency protection order after attempts to gain voluntary access to the Elder have failed.

Section 10. Rights of Elders, Their Families and Caretakers

Elders and family of Elders have the following rights:

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

2. 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.

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

4. 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 Nenana Tribal Court if the Elder or caretaker wants the Court to consider such evaluations.

CERTIFICATE OF ADOPTION

The Domestic Relations Code was submitted to a vote of the Nenana Tribal Council at an open meeting on _____ for which proper notice was provided, and was duly adopted by the Nenana Tribal Council by a vote of ____ in favor, and ____ opposed.

_____ Chief

_____ Second Chief

_____ Secretary/Treasurer

_____ Council Member

_____ Council Member

_____ Council Member

_____ Council Member

_____ Council Member

_____ Council Member