

PART II
CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS AND ENTERPRISES, DIVISIONS AND BOARDS

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ARTICLE I. CODE**Sec. 1-1. Codification ratified.**

All of the ordinances of the Community deemed suitable for inclusion heretofore enacted pursuant to the Constitution and bylaws of the Community are hereby codified under the following chapter numbers and descriptive headings:

Chapter:

- (1) General Provisions and Enterprises, Divisions and Boards.
- (2) Community Membership.
- (3) Voting and Elections.
- (4) Courts Generally.
- (4.5) Law Enforcement and Legal Offices.
- (5) Civil and Criminal Procedure.
- (5.5) Civil Offenses.
- (6) Criminal Code.
- (6.5) Sex Offender Registration and Community Notification.
- (7) Extradition and Exclusions.
- (8) Sentencing.
- (9) Probate.
- (10) Domestic Relations.
- (11) Minors.
- (12) Animals and Fowl.
- (13) Health and Sanitation.
- (14) Alcoholic Beverages and Prohibited Substances.
- (15) Licensing and Permits.
- (15.1) Taxation.
- (15.5) Gaming.
- (16) Traffic and Motor Vehicles.
- (17) Development, Real Property and Housing.
- (17.5) Floodplain and Drainage.
- (18) Water and Other Natural Resources.
- (19) Cultural Resources.

(20) Finances.

(21) Graffiti.

(22) Reserved.

(23) Labor and Employment.

(24) Business and Commerce.

(Code 1976, § 1; Code 1981, § 1-1; Code 2012, § 1-1; Ord. No. SRO-102-86, 7-23-1986; Ord. No. SRO-129-90, 6-27-1990; Ord. No. SRO-134-91, 10-31-1990; Ord. No. SRO-185-95, 10-26-1994; Ord. No. SRO-212-96, 11-8-1995; Ord. No. SRO-256-2000, 10-6-1999; SRO-294-03, 2-19-2003; Ord. No. SRO-305-05, 8-31-2005; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-352-10, 10-14-2009; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 1-1, 5-30-2012)

Sec. 1-2. Publication required.

The secretary of the Community shall, no less often than once every three months, beginning July 1, 1976, prepare, arrange and collate for publication the ordinances enacted during the prior three-month period which have not already been prepared, arranged and collated for publication.

(Code 1976, § 2; Code 1981, § 1-2; Code 2012, § 1-2; Ord. No. SRO-402-2012, § 1-2, 5-30-2012)

Sec. 1-3. Powers of codifier.

The secretary of the Community, in carrying out the provisions of section 1-2, shall not alter the sense, meaning or effect of any ordinance of the Community Council or any referendum or initiative enacted by the Community, but may renumber sections and parts of sections; rearrange sections, articles, chapter and titles; change reference numbers to agree with renumbered sections, articles, chapters or titles; substitute the proper section, article, chapter or title for the terms "the preceding section," "this article," "this ordinance" and like terms; strike out figures where they are merely a repetition of written words; change capitalization for the purpose of uniformity and correct manifest clerical or typographical errors. The secretary shall omit all temporary laws, all titles to ordinances, all enacting and repealing clauses, and all purpose, validity and construction clauses unless, from their nature, it

may be necessary to retain some of them to preserve the full meaning and intent of the law. The secretary shall not undertake to make any changes in existing laws, it being the intention of this section that the secretary shall in no manner assume to exercise legislative power.

(Code 1976, § 3; Code 1981, § 1-3; Code 2012, § 1-3; Ord. No. SRO-402-2012, § 1-3, 5-30-2012)

Sec. 1-4. History notes.

The secretary shall cause to be published in the codification of the ordinances of this Code annotations which indicate the effective date of various sections of this Community Code of Ordinances as well as historical notations relevant to this Community Code of Ordinances.

(Code 1976, § 4; Code 1981, § 1-4; Code 2012, § 1-4; Ord. No. SRO-402-2012, § 1-4, 5-30-2012)

Sec. 1-5. Enacting, repealing, and amending sections within the Community Code of Ordinances.

(a) *Repeal or amendment of sections of the Code of Ordinances as affecting existing liabilities:*

- (1) The repeal or amendment of any section of the Community Code of Ordinances shall not affect, release or extinguish any penalty, forfeiture, or civil or criminal liability incurred under such section prior to any such repeal or amendment unless the repeal or amendment expressly provides otherwise, and such section shall be treated as still remaining in force in any proper action or prosecution for the enforcement of such penalty, forfeiture, or civil or criminal liability.
- (2) The expiration of a section of the Community Code of Ordinances that includes a fixed termination date shall not affect, release or extinguish any penalty, forfeiture, or civil or criminal liability incurred under such section, unless such section expressly provides otherwise, and such section shall be treated as still remaining in force in any proper action or prosecution for the enforcement of such penalty, forfeiture, or civil or criminal liability.

(b) *Savings clause of repealed and amended sections of the Community Code of Ordinances.* All suits, proceedings, or prosecutions whether civil or criminal for causes arising or acts done or committed prior to any repeal or amendment of the Community Code of Ordinances may be commenced and prosecuted as if said repeal or amendment had not been made, unless the act of repeal or amendment expressly provides otherwise. (Ord. No. SRO-424-2013, § 1-4.01, 6-12-2013)

Sec. 1-6. Construction of Community Code of Ordinances provisions.

The Community has the inherent sovereign authority and sovereignty to regulate the conduct of persons and activities within its territory and jurisdiction. The provisions of this Community Code of Ordinances shall be liberally construed in accordance with the fullest interpretation of the Community's regulatory authority and jurisdiction as permitted by applicable laws, including the provisions of the Constitution of the Community.

(Code 2012, § 1-5; Ord. No. SRO-402-2012, § 1-5, 5-30-2012)

Sec. 1-7. Construction of catchlines.

The catchlines of the sections of this Community Code of Ordinances printed in boldface type and the subcatchlines printed in italic type are intended as mere catchwords to indicate the contents of the sections and subsections and shall not be deemed or taken to be titles of such sections or subsections nor as a substantive part of any section or subsection, unless so indicated.

(Code 1981, § 1-9; Code 2012, § 1-9; Ord. No. SRO-402-2012, § 1-9, 5-30-2012)

Sec. 1-8. Severability of parts of Code.

If for any reason any part, section, subsection, sentence, clause or phrase of this Community Code of Ordinances or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of Community Code of Ordinances.

(Code 1981, § 1-10; Code 2012, § 1-10; Ord. No. SRO-402-2012, § 1-10, 5-30-2012)

Sec. 1-9. Amendments to Code.

(a) *Amending existing provisions.* Amendments to any of the provisions of this Community Code of Ordinances may be made by amending such provisions by specific reference to the section number of this Community Code of Ordinances in substantially the following language: "section _____ of the Salt River Pima-Maricopa Indian Community Code of Ordinances is hereby amended to read as follows: . . ." The new provisions should then be set out in full as desired.

(b) *Adding.* In the event a new section not heretofore existing in Community Code of Ordinances is added, the following language is suggested: "The Salt River Pima-Maricopa Indian Community Code of Ordinances is hereby amended by adding a section, to be numbered _____, which said section reads as follows: . . ." The new section should then be set out in full as desired.

(c) *Repealing.* All sections, articles, chapters or provisions desired to be repealed should be specifically repealed by section, article or chapter number, as the case may be.
(Code 1981, § 1-11; Code 2012, § 1-11; Ord. No. SRO-402-2012, § 1-11, 5-30-2012)

Secs. 1-10—1-34. Reserved.**ARTICLE II. COMMUNITY,
ENTERPRISES, DIVISIONS AND BOARDS****DIVISION 1. PREAMBLE TO ENTERPRISES****Sec. 1-35. Authorization.**

Article VII, section (1)(c)(5) and (f) of the Constitution of the Salt River Pima-Maricopa Indian Community ("Community") authorizes the Community Council to adopt ordinances that provide for the public welfare and to organize enterprises for business or charitable purposes as follows:

- (1) The Community Council adopts this preamble to the enterprise ordinances as a brief statement of intent on how enterprises are related to the Community.

- (2) From time to time the Community Council has adopted ordinances to organize enterprises, some of which include:
 - a. Ordinance SRO-258-2000, established the Salt River Pima-Maricopa Community Schools as "a division of the Community."
 - b. Ordinance SRO-363-2010, established the Salt River Community Gaming Enterprises as "a division of the Community."
 - c. Ordinance SRO-237-1998, established the Salt River Community Housing Division as "a division of the Community."
 - d. Ordinance SRO-339-2008, established the Salt River Commercial Landfill Company as "a division of the Community."
 - e. Ordinance SRO-172-1994, established the Phoenix Cement Company as "a division of the Community."
 - f. Ordinance SRO-266-2000, established the Salt River Community Property Development and Asset Management Company as "a division of the Community."
 - g. Ordinance SRO-276-2001, established the Saddleback Communications Company as "a division of the Community."
 - h. Ordinance SRO-168-1993, established the Salt River Sand and Rock Company as "a division of the Community."
 - i. Ordinance SRO-350-2009, established the Salt River Community Golf Enterprises as "a division of the Community."
 - j. Ordinance SRO-311-2006, established the Salt River Financial Services Institution as "an institution of the Community."

k. Ordinance SRO-370-2011, established Salt River Fields at Talking Stick as "a subordinate economic enterprise of Community."

(3) The Community is the exclusive owner of the enterprises listed in subsection (2) of this section, each enterprise acts for the exclusive benefit of the Community and, with the exception of housing, schools, and the Salt River Financial Services Institute, the Community is the exclusive recipient of enterprise funds in excess of the operating needs.

(4) The Community and its wholly owned enterprises have a complete unity of interest. While each enterprise may have a unique purpose, authority, and responsibility, each enterprise shall remain subject to the overriding and paramount purpose, authority, and responsibility of the Community. The Community has established its enterprises to enhance Community self-sufficiency, promote Community economic development, generate employment for Community members, and generate government tax and other revenue to support the operation of Community government and the provision of governmental services and programs to Community members.

(Code 2012, § 1-20; Ord. No. SRO-402-2012, § 1-20, 5-30-2012)

Secs. 1-36—1-58. Reserved.

DIVISION 2. SALT RIVER PIMA-MARICOPA COMMUNITY SCHOOLS DIVISION

Sec. 1-59. Established.

(a) There is established a division of the Community to be known as Community schools.

(b) The Community schools division shall maintain its principal place of business and offices in the Community.

(c) The Community schools division shall be in the business of developing and operating a pre-K through 20 grades educational structure as des-

ignated by the Community Council through the budget process or otherwise and may also operate a child care and Head Start, GED, vocational education, adult education, post-secondary education, library and such other related activities as the Community Council deems necessary and appropriate.

(d) The purposes of the Community schools division are to promote educational excellence within the Community so as to enable the Community to survive and prosper as an independent Indian Community by educating the students of the schools to reach their highest potential.

(e) In furtherance, and not in limitation, of the general powers conferred by the Community schools division of the Community and of the purposes hereinbefore stated and in conformity with the policies of the Community Council, the Community schools division shall also have the following powers which shall be exercised by the board of the Community schools division or delegated by it to the Community schools division officers or employees:

(1) To enter into, make and perform contracts of every kind and description with any firm, person, association or corporation, tribal government, municipality, country, territory, state government or dependency thereof, subject only to the following restrictions:

a. The Community schools division shall not enter into any lease of real property without the approval of the Community Council.

b. The Community schools division shall not enter into any contract which requires expenditures from the Community schools division in excess of the Community schools division's board-approved budget for the subject matter of any such contract without an amendment to the Community schools division's budget.

(2) To borrow money for any of the purposes of the Community schools division, and in connection therewith to make, draw, execute, accept, endorse, discount, pledge,

- issue, sell or otherwise dispose of promissory notes, drafts, bills of exchange, warrants, bonds, debentures, and other evidences of indebtedness, negotiable or nonnegotiable, transferable or not transferable, and grant collateral or other security to secure the indebtedness provided that the collateral or security are the thing or things purchased with the funds borrowed in the same transaction (purchase money collateral) the board may grant collateral or other security other than purchase money collateral or security as described herein and with such approval issue jointly with any other person, associates or firm any evidences of indebtedness as described in this subsection with the specific approval of the Community Council. Any borrowing by the Community schools division from the Community shall be treated as a like borrowing from any commercial lender.
- (3) To adopt an annual budget of income and expenses approved by the Community Council.
 - (4) To conduct banking relationships necessary to the operation of the Community schools division, to establish a uniform system of accounting, and to provide for the annual auditing by a certified public accountant of the books of the Community schools division and to report the financial condition of the Community schools division to the Community Council quarterly at such time as appropriate regulations or management guidelines are adopted by the board and approved by the Community Council and until such adoption and approval such functions shall be assumed by the finance department of the Community.
 - (5) To periodically transfer to the Community funds excess to the operating needs of the Community schools division. The Community schools division shall make such transfers at the direction of the board or at the direction of the Community Council.
 - (6) To enter into agreements with departments of the Community to provide assistance in accounting, personnel selection, purchasing or other services as the board may from time to time determine and to enter into contracts for goods and services with any division of the Community. Until such policies and procedures are approved by the Community Council, such functions shall be governed by the Community policies and procedures and managed by the Community human resources department.
 - (7) To hire, promote and discharge such personnel as may be required to conduct the affairs of the Community schools division; provided that the terms and conditions of employment, including wages and benefits (including any pension plans or other deferred compensation arrangements) paid and personnel policies used and disciplinary procedures utilized shall be subject to the approval of the Community Council.
 - (8) To conduct the business of the Community schools division in accordance with the laws, and, except as the Community schools division policies and procedures have been approved by the Community Council, the policies and procedures of the Community.
 - (9) To apply for and expend according to agreements entered into grants and gifts for the purposes of enhancing the educational services performed by the Community schools division, with federal, state and municipal governments as well as private foundations and persons.
 - (10) To exercise such powers as are necessary to effect the purposes for which the Community schools division is organized and consistent with this division within this Community Code of Ordinances.
 - (f) The Community schools division shall engage in activities as described in subsection (c) of this section at the specific direction of the Community Council. The Community schools division shall carry out the plan of development for the

development and operation of such activities as shall be directed by the Community Council within the schedule determined by the council.

(g) The general business of the Community schools division shall be conducted by a board which shall consist of nine voting members who shall be appointed by the Community Council and one ex officio nonvoting member. The qualifications of the members are as follows:

- (1) The education director of the Community department of education shall be the chief executive officer of the Community schools division.
- (2) The appointed members of the board shall consist of nine members: six enrolled Community members; two professionals, at least one of whom must be a Community member; and one Community Council member. The council member shall serve on the board until the expiration of his or her council term or until replaced by council, whichever occurs earlier. The other eight board members shall serve staggered terms, with the expiration date of each position to be as assigned on the board roster of January 19, 1999. These eight board members shall serve three-year terms subject to removal by the Community Council. Two members of the board shall have extensive professional or management experience. One person appointed under this subsection shall be an enrolled member of the Community and the other appointee may be a nonmember. The council will accord preference to Native Americans in the appointment under this subsection.
- (3) The education director of the Community department of education shall be the ex officio nonvoting member who will serve as CEO during the term of his or her service as education director.
- (4) Any board member who is qualified under subsection (g)(2) of this section shall serve at the pleasure of the Community Council and if not earlier removed by the Community Council shall serve for their term or hereafter until their successors are ap-

pointed by the Community Council. Any board member who is a member of the council shall serve at the pleasure of the Community Council during such council member's term of office as a council member.

(h) The officers of the board shall consist of a chairperson of the board, vice-chairperson, and secretary/treasurer, and such additional officers as the board may deem necessary. The officers elected by the board shall hold office for a period of one year, or until their successors are elected and shall have qualified, unless removed from office by the board as provided in the policies. The president of the Community may from time to time assign employees of the Community to perform functions for the Community schools division and attend board meetings of the Community schools division.

(i) The board shall have the power to adopt, amend, rescind and repeal policies and to elect and appoint such agents and committees as it may deem necessary, with such powers as it may confer.

(j) The highest amount of indebtedness or liability, direct or contingent, to which the Community schools division may at any time subject itself shall be determined, from time to time, by the Community Council.

(k) The board members and officers of the Community schools division shall not be liable for the debts of the Community schools division, the private property of the board members and officers of the Community schools division shall be forever exempt from its debts and the Community indemnifies and shall hold harmless Community schools division employees, the board members and officers from liability or other claim arising out of their duties of or function as Community schools division employees, board members or officers.

(l) Nothing in this division within this Community Code of Ordinances shall exempt the Community schools division from full compliance with ordinances of the Community and this division within this Community Code of Ordinances

does not repeal or amend any other ordinance or resolution of the Community.

(Code 1981, § 2-45; Code 2012, § 1-25; Ord. No. SRO-258-2000, 12-8-1999; Ord. No. SRO-329-08, 4-2-2008; Ord. No. SRO-402-2012, § 1-25, 5-30-2012)

Sec. 1-60. Capitalization; financial responsibility.

(a) The Community schools division shall be capitalized as shall be determined by the Community Council.

(b) The Community schools division shall be responsible for the payment of all indebtedness of the Community schools division and the Community hereby expressly waives any and all defenses based on its sovereign immunity from suit with respect to any action:

- (1) Based on contract for money;
- (2) Based on the replevin of personal property; and
- (3) For damages arising out of tort when the damage claim is fully covered by insurance owned by the Community schools division, and provided in each case that such action is brought in the Community court and no other court of the United States or of any state.

(c) This waiver and consent is limited to any assets of the Community which are held in the accounts of the Community schools division in the name of the Community schools division; provided, however, that such waiver and consent shall not extend to assets transferred from the accounts of the Community schools division to other accounts of the Community, and to amounts payable to the Community by the Community schools division. All obligations incurred in connection with the Community schools division shall be special obligations of the Community schools division payable solely from the assets described in this subsection. The Community schools division shall accept service of process upon the

Community schools division by delivery to any officer or managing agent of the Community schools division.

(Code 1981, § 2-46; Code 2012, § 1-26; Ord. No. SRO-258-2000, 12-8-1999; Ord. No. SRO-402-2012, § 1-26, 5-30-2012)

Secs. 1-61—1-78. Reserved.

DIVISION 3. COMMUNITY HOUSING PROGRAM*

Sec. 1-79. Community housing program; purpose and responsibilities.

(a) The Community tribal housing program shall consist of four department divisions of the Salt River Pima-Maricopa Indian Community ("Community") government established to manage the Community's housing program. The four department divisions are:

- (1) Housing maintenance division of the engineering and construction services department;
- (2) Housing property management division of the Community development department known as the resident resources and services division;
- (3) Housing finance division of the Community finance department; and
- (4) Housing services division of the health and human services department.

(b) The purpose of these department divisions is to promote the development of affordable, well-constructed, modern, reasonably energy efficient, and culturally relevant homes and related services within the Community.

***Editor's note**—Ord. No. SRO-448-2014, adopted Aug. 20, 2014, repealed the former div. 3, §§ 1-79 and 1-80, and enacted a new div. 3 as set out herein in § 1-79. The former div. 3 pertained to Salt River Community Housing Division and derived from Code 1981, §§ 17-21, 17-22; Code 2012, §§ 1-40, 1-41; Ord. No. SRO-232-97, adopted Sept. 30, 1997; Ord. No. SRO-237-1998, §§ A, B, adopted Apr. 15, 1998; and Ord. No. SRO-402-2012, §§ 1-40, 1-41, adopted May 30, 2012.

(c) The department divisions shall work with other Community departments to plan, develop, construct, maintain and operate various housing systems for members of the Community.

(d) The department divisions shall assume all of the benefits and responsibilities of the Salt River Housing Authority, including but not limited to: contractual obligations; grant obligations; responsibilities and benefits undertaken pursuant to the 1937 Housing Act as amended; ownership of all real and personal property; accounts payable; accounts receivable; and all financial assets including amounts due under the 1937 Housing Act as amended. The department divisions shall also assume the benefits and responsibilities of the Community's tribal designated housing entity.

(e) The department divisions shall exercise all rights and perform all duties of the housing division under the Amended and Restated Agreement of Limited Partnership of Canal Side Limited Partnership dated May 9, 2000, the Amended and Restated Agreement of Limited Partnership of Canalside II Limited Partnership dated December 1, 2000, and all agreements, leases, declarations, covenants, and other documents related to those limited partnerships.
(Ord. No. SRO-448-2014, § 1-79, 8-20-2014)

Secs. 1-80—1-103. Reserved.

DIVISION 4. SALT RIVER COMMUNITY PROPERTY DEVELOPMENT AND ASSET MANAGEMENT COMPANY

Sec. 1-104. Established.

(a) There is established a division of the Community to be known as Salt River Community Property Development and Asset Management Company.

(b) The Community property development and asset management division shall maintain its principal place of business and offices in the Community.

(c) The Community property development and asset management division shall be in the business of developing real property within the Com-

munity and managing commercial developments and such other business enterprises and related activities as the Community Council may from time to time determine the Community property development and asset management division shall develop, manage and operate.

(d) The purposes of the Community property development and asset management division are to promote commercial development within the Community so as to enable the Community to survive and prosper as an independent Indian Community by creating a viable economy for the Community.

(e) In furtherance, and not in limitation, of the general powers conferred by this division within this Community Code of Ordinances of the Community and of the purposes hereinbefore stated and in conformity with the policies of the Community Council, the Community property development and asset management division shall also have the following powers which shall be exercised by the board of the Community property development and asset management division or delegated by it to Community property development and asset management division officers or employees:

(1) To enter into, make and perform contracts of every kind and description with any firm, person, association or corporation, tribal government, municipality, country, territory, state government or dependency thereof, subject only to the following restrictions:

a. Development of real property. The Community property development and asset management division may in the ordinary course of its business, lease land owned by the Community upon the approval of the Community Council and land owned by allotted landowners upon the approval of the allotted landowners or accept designations of use of Community-owned land by the Community Council and develop such land as commercial property for sublease, all according to law. Every lease or designation of use entered into by

the Community property development and asset management division shall be subject to the requirements of SRO-25-74 and all other provisions of law relating to the lease of land in Indian country, and the development of such land shall be subject to the Community's zoning and building codes, vision statement and all other provisions of Community law. The Community property development and asset management division shall not have any more authority to lease or develop land within the Community than any other person.

- b. Management of real property and business assets. The Community property development and asset management division may enter into contracts to manage real property and business assets. It shall manage such assets as are designated by the Community Council for such management, as well as real property leased to the Community property development and asset management division as lessee. The Community property development and asset management division may act as leasing agent, developer and asset manager for land leased by it or business assets or real property designated by the Community Council for such purposes.
- c. Assistance to allotted landowners. The Community property development and asset management division shall respond to landowner requests for assistance in the leasing or development of their land holdings. Such assistance which shall include review and analyses of economic proposals made to landowners, reviewing the background and experience of proposed lessees or developers, assisting in the negotiation of leases and other instruments to protect the interests of landowners,

providing assistance in the drafting of such documents and generally assisting landowners in the development of their land.

- d. The Community property development and asset management division shall not enter into any contract which requires expenditures from the Community property development and asset management division in excess of the Community property development and asset management division budget as approved by the Community Council as provided in subsection (e)(3) of this section for the subject matter of any such contract without an amendment to the Community property development and asset management division's budget approved by the Community Council.
- (2) To borrow money for any of the purposes of the Community property development and asset management division, and in connection therewith to make, draw, execute, accept, endorse, discount, pledge, issue, sell or otherwise dispose of promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other evidences of indebtedness, negotiable or nonnegotiable, transferable or not transferable, and grant collateral or other security to secure the indebtedness provided that the collateral or security are the thing or things purchased with the funds borrowed in the same transaction (purchase money collateral). The board may grant collateral or other security other than purchase money collateral or security as described herein and issue itself or jointly with any other person, associate or firm, any evidences of indebtedness as above described with the specific approval of the Community Council. Any borrowing by the Community property development and asset management division from the Community shall be treated as a like borrowing from any commercial lender.

- (3) To adopt an annual budget of income and expenses as well as capital improvements approved by the Community Council.

- (4) To conduct banking relationships necessary to the operation of the Community property development and asset management division, to establish a uniform system of accounting, to provide for the annual auditing by a certified public accountant of the books of the Community property development and asset management division and to report the financial condition of the Community property development and asset management division to the Community Council quarterly.
- (5) To periodically transfer to the Community funds excess to the operating needs of the Community property development and asset management division. Such transfers shall be made at the direction of the board or at the direction of the Community Council.
- (6) To enter into arrangements with departments of the Community to provide assistance in accounting, personnel, purchasing or other services as the board may from time to time determine and to enter into contracts for goods and services with any Community property development and asset management division of the Community.
- (7) To hire, promote and discharge such personnel as may be required to conduct the affairs of the Community property development and asset management division.
- (8) To conduct the business of the Community property development and asset management division in accordance with the law, and except as Community property development and asset management division policies and procedures have been approved by the Community Council, the policies and procedures of the Community.
- (9) To adhere to the vision statement of the Community so as to develop commercial structures which fully meet the aesthetic and cultural requirements of the Community.
- (10) To exercise such powers as are necessary to effect the purposes for which the Community property development and asset management division is organized and consistent with this section.
 - (f) The board shall engage in activities as described in subsection (c) of this section at the specific direction of the Community Council exercised through the budget process or otherwise.
 - (g) The general business of the Community property development and asset management division shall be conducted by a board which shall consist of nine voting members who shall be appointed by the Community Council. The qualifications of the members are as follows:
 - (1) The president/CEO of the Community property development and asset management division.
 - (2) Five members shall be members of the Community, of whom one shall be a member of the Community Council.
 - (3) Three members shall have extensive professional experience in real estate development, asset management, banking or finance. Such members may be nonmembers. The council will accord preference to Native Americans in the appointments under this subsection.

The CEO of the Community property development and asset management division shall serve as president during the term of his or her employment as CEO. Any board member who is qualified under subsections (g)(2) and (3) of this section shall serve at the pleasure of the Community Council and if not earlier removed by the Community Council shall serve for a three year term or thereafter until their successors are appointed by the Community Council. Any board member who is a member of the Community Council shall serve at the pleasure of the Community Council during such council member's term of office as a council member.
 - (h) The officers of the Community property development and asset management division shall consist of a chairperson of the board, president, secretary and treasurer, and such additional officers as the board may deem necessary. The chair-

person of the board and all other offices shall be subject to annual election by the board at its annual meeting. The officers elected by the board shall hold office for a period of one year, or until their successors are elected and shall have qualified, unless removed from office by the board as provided in the bylaws. Except for the chairperson and the president, officers need not be members of the board. The president of the Community may from time to time assign employees of Community to perform functions for the Community property development and asset management division and attend board meetings of the Community property development and asset management division.

(i) The board shall have the power to adopt, amend, rescind and repeal bylaws and to elect and appoint such agents and committees as it may deem necessary, with such powers as it may confer.

(j) The highest amount of indebtedness or liability, direct or contingent, to which the Community property development and asset management division may at any time subject itself shall be determined, from time to time, by the Community Council.

(k) The board members and officers of the Community property development and asset management division shall not be liable for the debts of the Community property development and asset management division, the private property of the board members and officers of the Community property development and asset management division shall be forever exempt from its debts and the Community indemnifies and shall hold harmless Community property development and asset management division employees, the board members and officers from liability or other claim arising out of their duties of or function as Community property development and asset management division employees, board members or officers.

(l) Nothing in this division within this Community Code of Ordinances shall exempt the Salt River Community Property Development and Asset Management Company Division from full com-

pliance with ordinances of the Community and this section does not repeal or amend any other ordinance or resolution of the Community.

(Code 1981, § 2-55; Code 2012, § 1-45; Ord. No. SRO-266-00, 2-9-2000; Ord. No. SRO-402-2012, § 1-45, 5-30-2012)

Sec. 1-105. Capitalization; financial responsibility.

(a) The Community property development and asset management division shall be capitalized as shall be determined by the Community Council.

(b) The Community property development and asset management division shall be responsible for the payment of all indebtedness of the Community property development and asset management division and the Community hereby expressly waives any and all defenses based on its sovereign immunity from suit with respect to any action:

- (1) Based on contract for money;
- (2) Based on the replevin of personal property and provided in each case that such action is brought in the Community court (and no other court of the United States or of any state) or by arbitration pursuant to an arbitration agreement entered into between the Community property development and asset management division or any other person; and
- (3) For damages arising out of tort when the damage claim is fully covered by insurance owned by the Community property development and asset management division or the Community and provided in each case that such action is brought in the Community court (and no other court of the United States or of any state) or by arbitration pursuant to an arbitration agreement entered into between the Community property development and asset management division or any other person.

(c) This waiver and consent is limited to any assets of the Community which are held in the accounts of the Community property development and asset management division in the name of

the Community property development and asset management division; provided, however, that such waiver and consent shall not extend to assets transferred from the accounts of the Community property development and asset management division to other accounts of the Community, and to amounts payable to the Community by the Community property development and asset management division. All obligations incurred in connection with the Community property development and asset management division shall be special obligations of the Community property development and asset management division payable solely from the assets described in this subsection. The Community property development and asset management division shall accept service of process upon the Community property development and asset management division by delivery to any officer or managing agent of the Community property development and asset management division.
(Code 1981, § 2-56; Code 2012, § 1-46; Ord. No. SRO-266-00, 2-9-2000; Ord. No. SRO-402-2012, § 1-46, 5-30-2012)

Secs. 1-106—1-123. Reserved.

DIVISION 5. SALT RIVER COMMUNITY
GOLF ENTERPRISES

Sec. 1-124. Established.

(a) There is established a division of the Community to be known as Salt River Community Golf Enterprises.

(b) The golf enterprises division shall maintain its principal place of business and offices in Maricopa County, Arizona.

(c) The golf enterprises division shall be in the business of developing and operating two 18-hole golf courses and such other businesses as the Community Council may from time to time determine the golf enterprises division shall develop and operate.

(d) The purposes of the golf enterprises division are to promote the economic self-sufficiency of the Community so as to enable the Community to survive and prosper as an independent Indian

Community by earning profits to sustain and enhance the Community's necessary governmental programs.

(e) In furtherance, and not in limitation, of the general powers conferred by this division of the Community and of the purposes hereinbefore stated and in conformity with the policies of the Community Council, the golf enterprises division shall also have the following powers which shall be exercised by the board of the golf enterprises division or delegated by it to golf enterprises division officers or employees:

- (1) To enter into, make and perform contracts of every kind and description with any firm, person, association or corporation, tribal government, municipality, country, territory, state government or dependency thereof, subject only to the following restrictions:
 - a. The golf enterprises division shall not enter into any lease of real property without the approval of the Community Council.
 - b. The golf enterprises division shall not enter into any contract which requires expenditures from the golf enterprises division in excess of the golf enterprises division's board-approved budget for the subject matter of any such contract without an amendment to the golf enterprises division's budget.
- (2) To borrow money for any of the purposes of the golf enterprises division, and in connection therewith to make, draw, execute, accept, endorse, discount, pledge, issue, sell or otherwise dispose of promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other evidences of indebtedness, negotiable or nonnegotiable, transferable or not transferable, and grant collateral or other security to secure the indebtedness, provided that the collateral or security are the thing or things purchased with the funds borrowed in the same transaction (purchase money collateral) and, with the specific approval of the Community, the

board may grant collateral or other security other than purchase money collateral or security as described herein and with such approval issue jointly with any other person, associates or firm any evidences of indebtedness as above described. Any borrowing by the golf enterprises division from the Community shall be treated as a like borrowing from any commercial lender.

- (3) To adopt an annual budget of income, expenses and capital expenditures approved by the Community Council.
- (4) To conduct banking relationships necessary to the operation of the golf enterprises division, to establish a uniform system of accounting, to provide for the annual auditing by a certified public accountant, of the books of the golf enterprises division and to report the financial condition of the golf enterprises division to the Community Council quarterly.
- (5) To periodically transfer to the Community cash it retains. The golf enterprises division will make such transfers periodically, at the direction of the board or at the direction of the Community.
- (6) To enter into arrangements with departments of the Community to provide assistance in accounting, personnel selection, purchasing or other services as the board may from time to time determine and to enter into contracts for goods and services with any golf enterprises division of the Community or other business entities.
- (7) To hire, promote and discharge such personnel as may be required to conduct the affairs of the golf enterprises division; provided that the terms and conditions of employment, including wages and benefits (including any pension plans or other deferred compensation arrangements) paid and personnel policies used and disciplinary procedures utilized shall be subject to the approval of the Community Council.
- (8) To conduct the business of the golf enterprises division in accordance with the laws of the Community.

- (9) To exercise such powers as are necessary to effect the purposes for which the golf enterprises division is organized and consistent with this division within this Community Code of Ordinances.

(f) The board shall create separate management arrangements, budgets and books of account for each of the businesses conducted by the golf enterprises division.

(g) The general business of the golf enterprises division shall be conducted by a board which shall consist of seven voting members who shall be appointed by the Community Council. Upon the next appointment of board members (representing subsections (g)(3) and (4) of this section), two of the five appointed members shall have a one-year term and the other three members will have a two-year term. Members who are thereafter appointed for a full term will serve a three-year term as provided in subsection (h) of this section. The qualifications of the members are as follows:

- (1) The president or vice president of the Community. The president or vice president shall serve as the chairperson of the board during the same term.
- (2) A member of the Community Council other than the president or Vice President of the Community.
- (3) Three members shall be members of the Community.
- (4) Two members of the board shall have extensive professional or management experience in the golfing, commercial development or banking and finance business. The council will accord preference to Native Americans in the appointments under this subsection.

All board members shall serve at the pleasure of the Community Council and if not earlier removed by the Community Council shall serve for a term of three years or thereafter until their successors are appointed by the Community Council or if a member of the Community Council, for the period of such member's council term and a successor elected by the Community Council.

(h) The officers of the golf enterprises division shall consist of a chairperson of the board, vice-chairperson of the board, secretary and treasurer, and such additional officers as the board may deem necessary. All officers except the chairperson, treasurer and secretary shall be elected by the board at its annual meeting. The treasurer of the Community or his or her designee will serve as treasurer of the golf enterprises division and the general counsel of the Community or his or her designee will serve as secretary of the golf enterprises division. The officers elected by the board shall hold office for a period of one year, or until their successors are elected and shall have qualified, unless removed from office by the board as provided in the bylaws. Except for the chairperson, officers need not be members of the board. The president of the Community may from time to time assign employees of the Community to perform functions for the golf enterprises division and attend board meetings of the golf enterprises division.

(i) The board shall have the power to adopt, amend, rescind and repeal bylaws and to elect and appoint such agents and committees as it may deem necessary, with such powers as it may confer.

(j) The highest amount of indebtedness or liability, direct or contingent to which the golf enterprises division may at any time subject itself shall be determined, from time to time, by the Community Council.

(k) The board members and officers of the golf enterprises division shall not be liable for the debts of the golf enterprises division, the private property of the board members and officers of this golf enterprises division shall be forever exempt from its debts and the Community indemnifies and shall hold harmless the golf enterprises division employees, the board members and officers from liability or other claim arising out of their duties or function as golf enterprises division employees, board members or officers.

(l) Nothing in this division within this Community Code of Ordinances shall exempt the golf enterprises division from full compliance with ordinances of the Community and this division

within this Community Code of Ordinances does not repeal or amend any other ordinance of the Community.

(Code 1981, § 2-75; Code 2012, § 1-55; Ord. No. SRO-269-00, 7-5-2000; Ord. No. SRO-350-09, 9-16-2009; Ord. No. SRO-402-2012, § 1-55, 5-30-2012)

Sec. 1-125. Capitalization; financial responsibility.

(a) The golf enterprises division shall be capitalized as shall be determined by the Community.

(b) The golf enterprises division shall be responsible for the payment of all indebtedness of the golf enterprises division and the Community hereby expressly waives any and all defenses based on its sovereign immunity from suit with respect to any action:

- (1) Based on contract for money;
- (2) Based on the replevin of personal property; and
- (3) For damages arising out of tort when the damage claim is fully covered by insurance owned by the golf enterprises division and provided in each case that such action is brought in the Community court and no other court of the United States or of any state except for any claim under subsection (b)(1) of this section where there is a written agreement by the golf enterprises division providing for arbitration disputes under the authority of 25 USC 416 may be adjudicated under 25 USC 416 to the extent provided in such written agreement.

(c) The waiver and consent is limited to any assets of the Community which are obtained by the golf enterprises division through the operation of the business of the golf enterprises division or held in the accounts of the golf enterprises division in the name of the golf enterprises division; provided, however, that such waiver and consent shall not extend to assets transferred from the accounts or business of the golf enterprises division to other accounts of the Community, and to amounts payable to the Community by the golf enterprises division. All obligations incurred in connection with the golf enterprises

division shall be special obligations of the golf enterprises division payable solely from the assets described in this subsection. The golf enterprises division shall accept service of process upon the golf enterprises division by delivery to any officer or managing agent of the golf enterprises division.

(Code 1981, § 2-76; Code 2012, § 1-56; Ord. No. SRO-269-00, 7-5-2000; Ord. No. SRO-350-09, 9-16-2009; Ord. No. SRO-402-2012, § 1-56, 5-30-2012)

Secs. 1-126—1-148. Reserved.

DIVISION 6. SALT RIVER FINANCIAL SERVICES INSTITUTION

Sec. 1-149. Established.

(a) There is established an institution of the Community to be known as the Salt River Financial Services Institution (the "institution").

(b) The institution is an integral part of the Community organized to perform an essential governmental function of the Community. As such, while it operates autonomously, it is ultimately accountable to the council of the Community. The institution accordingly has, in the exercise of its powers, the full measure of the Community's sovereign immunity, the Community's exemption from federal and state taxation, and the Community's right to be treated as a state government for the purposes of section 7871 of the Internal Revenue Code of 1986, as such section may be amended or recodified from time to time.

(c) The principal office of the institution shall be located within the Community at 10005 East Osborn Road, Scottsdale, AZ 85256. The resident agent of the institution is the executive director of Salt River Financial Services Institution, whose post office address is the Salt River Financial Services Institution, 10005 East Osborn Road, Scottsdale, AZ 85256.

(d) Purpose of the institution. The institution provides opportunities for housing and business development through loan products, financial education and business coaching. Specifically, the Institution is organized for charitable and public welfare purposes to sponsor and promote pro-

grams and activities for the improvement of the education, health and general welfare of the members of the Community and to this end to seek contributions from all sources, to enter into contracts for the purchase of personal property and for the lease of real property as may be reasonably necessary to its purposes and to provide reasonable loans, as well as financial education and business coaching, to Community members and Community-member-owned entities to assist in procuring and maximizing housing and economic development opportunities.

(Code 1981, § 17-301; Code 2012, § 1-60; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-60, 5-30-2012)

Sec. 1-150. Powers.

(a) *Authorization.* The institution is empowered:

- (1) To purchase, receive, take by gifts, devise or bequests, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated;
- (2) To hire employees and pay them compensation;
- (3) To lease land within the Salt River Pima-Maricopa Indian Reservation from the Community, and to sublease any portion of such land to suitable sublessees, for uses consistent with the purposes stated herein;
- (4) Subject to the limitations provided herein, to enter into contracts, partnership agreements, incur obligations and otherwise engage in, transact, and carry on business within the Salt River Pima-Maricopa Indian Reservation or elsewhere; and
- (5) Subject to the limitations provided herein, sue and be sued in its own name and in deed to do and perform all acts reasonably necessary to accomplish the purposes of the Salt River Financial Services Institution.

(b) *Operate its business and manage assets.* The institution shall have the power to administer and operate its business and manage such

assets as the Community and other contributors assign to the institution. In so doing, the institution shall function autonomously on a day-to-day basis and operate independently while remaining ultimately accountable to the Community, and specifically to the Community Council.

(c) *Contractual transactions.* In exercising the power to manage and operate, the institution may enter into contractual transactions without specific approval of the council only in the following circumstances:

- (1) Subject to compliance with the provisions of this subsection, and subject to the limitations in subsection (d) of this section, the institution may enter into contracts without specific approval of the council where the following requirements are satisfied:
 - a. The transaction in question is part of the institution's ordinary and routine course of business;
 - b. The transaction in question is specifically beneficial to the institution; and
 - c. The transaction in question is funded by and consistent with the specific allocations of an institution budget that has been approved pursuant to section 1-151(c).

The institution is required to regularly consult with the Community's general counsel or his or her designee to determine whether contracts entered into pursuant to this provision are consistent with Community law and satisfactorily protective of the Community's political integrity. Any contract that contains, appears to contain, or may be interpreted to contain, a waiver of sovereign immunity must be reviewed and approved by the Community office of the general counsel.

- (2) Subject to compliance with the provisions of this subsection, and subject to the limitations subsection (d) of this section, and consistent with its approved budget, the institution may incur debt for the lease or purchase of equipment and give a security

interest in the leased or purchased equipment as collateral for such debt. Any transaction to lease or purchase equipment:

- a. Must be authorized by a budget that has been approved by the institution's board of directors and the council pursuant to section 1-151; and
 - b. The significant terms of such transaction must be included in the institution's report to the council for the quarterly period in which the transaction took place.
- (3) The institution shall not enter into any contract or partake in any transaction, without the approval of the Community Council, which requires expenditures or involves financial obligations in excess of the budget approved pursuant to section 1-151.
 - (4) Community Council approval is required for any acquisition, conveyance, leasing or other disposition of real property by the institution. For any acquisition by the institution of real property, the Community Council shall determine, by resolution, whether such land shall be owned in fee simple absolute by the institution, in fee simple absolute by the Community or by the United States in trust for the Community.
 - (5) The institution may enter into any transaction or obligation, or engage in any activity, involving the following: Business loans, home loans, financial education efforts, business coaching, savings programs, insurance and bonding assistance and partnerships with other financial and business institutions.

(d) *Limitation of liability and financial obligations of the institution.*

- (1) Unless specifically provided otherwise in a separate resolution adopted by the Community Council, the institution's aggregate liability, obligation and financial exposure shall always remain limited solely and specifically to the assets of the insti-

tution, separate and apart from the assets of the Community. Barring Community Council directive providing otherwise, such liability, obligation and financial exposure shall never include or obligate any real property, personal property or accounts or any other assets of the Community itself, or any other Community division, department, authority, enterprise, subdivision or entity. Barring Community Council directive providing otherwise, no liability, obligation, financial exposure or debt of the institution shall extend to those assets transferred from the accounts or business of the institution to the accounts of the Community or to amounts payable to the Community by the institution.

- (2) All obligations incurred in connection with the institution shall be special obligations of the institution payable solely from the assets of the institution, separate and apart from the assets of the Community.
- (3) The institution's obligations are not general obligations of the Community and are limited only to those assets of the institution pertaining to any agreement executed pursuant to subsections (a) and (b) of this section.
- (4) Unless specifically provided otherwise in a separate resolution adopted by the Community Council, the institution may assume responsibility and be liable only in its own name, and never in the name of the Community, or any other Community division, department, authority, affiliate, enterprise, subdivision or entity.
- (5) No claim for liability or any other payment obligation in relation to the activities of the institution may be brought against the Community or the Community's other assets or property, including those of other divisions, departments, authorities, affiliates, enterprises, subdivisions or entities of the Community.
- (6) Unless specifically provided otherwise in a separate resolution adopted by the Community Council, the institution's liability for a specific transaction, undertaking or

act shall always be expressly limited to actual compensatory damages and shall not include consequential, special or punitive damages.

- (7) Unless specifically provided otherwise in a separate resolution adopted by the Community Council, the institution may expressly or impliedly waive its sovereign immunity only under the circumstances set forth in this subsection.
 - a. Any waiver of sovereign immunity shall be solely for the limited purpose of:
 - 1. Commencing arbitration;
 - 2. Enforcing the obligation to arbitrate disputes; and
 - 3. Enforcing arbitration decisions or awards in accordance with the dispute resolution provisions herein.
 Such limited waiver shall extend solely to parties to documents executed by the institution and/or affiliated parties, third-party beneficiaries thereto, beneficiaries thereto by virtue of agreements made a part thereof by attachment, incorporation by reference or integration therewith, and any approved successors and assigns. Such limited waiver of sovereign immunity does not extend to any person or entity other than such parties, beneficiaries, approved successors and assigns; or any claims for consequential or punitive damages.
 - b. The limited waiver of sovereign immunity shall require that the resolution of disputes is to be conducted solely through binding arbitration under the following conditions:
 - 1. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association or, in the case of contracts dealing with a specialized subject matter for which another arbitration system is

- commonly recognized, in accordance with the rules of such other arbitration system;
2. The arbitration hearing will be conducted in Phoenix, Arizona, before three arbitrators designated in accordance with the AAA rules. In the alternative, the parties to a dispute may mutually agree to submit the matter for consideration by a single arbitrator;
 3. The arbitrator shall have no power to depart from or change any of provisions of the underlying contract or the applicable arbitration rules, as modified herein;
 4. The arbitrator's power, jurisdiction, decisions and award allowed under the applicable arbitration rules are limited by the choice of law and sovereign immunity provisions, herein, or by such provisions as are approved by the Community Council in a separate adopted resolution;
 5. The arbitration award or obligation to arbitrate may be enforced only in the Community court or, where authorized by federal law, the United States District Court for the District of Arizona;
 6. Any consent to jurisdiction under the applicable arbitration rules is limited to the Community court or, where applicable, United States District Court for the District of Arizona, and excludes jurisdiction in any state court; and
 7. The contract or transaction shall provide for such other terms regarding the arbitration as are reasonable or customary, including that the arbitrators be knowledgeable in federal Indian law.
- (8) No provision herein and no action of the institution shall be deemed or construed to waive the sovereign immunity of the Community, or any other Community division, department, authority, affiliate, enterprise, subdivision or entity.
 - (e) *Council's consent required for certain transactions.* The institution's board of directors may seek permission from the Community Council for consent to enter into transactions that are not within the powers delegated to the institution under subsections (a) through (d) of this section, including the following:
 - (1) Purchasing or leasing real property on behalf of the Community or encumbering real property owned by the Community, provided that the subleasing of real property may be conducted by the institution without the Community Council's approval should a master lease or other document covering such real property and approved by the Community Council so provide;
 - (2) Entering into any contract or otherwise incurring any obligation in connection with an activity that is not within the ordinary course of the institution's business;
 - (3) Entering into any financial obligation, and executing any associated loan documents, which designate, as collateral or security, property other than that which is identified in subsection (c)(2) of this section;
 - (4) Any transaction or act that involves liability, obligation or financial exposure in excess of that which is permitted under the terms of subsections (b) and (c) of this section.
 - (f) *Council retains discretion to veto on a case-by-case basis.* Notwithstanding the provisions set forth in this section, the Community Council retains discretion to veto agreements and transactions, and to withhold any associated waivers of sovereign immunity, on a case-by-case basis where specific questions as to the welfare of the Commu-

nity or its members are raised regarding certain agreements that are otherwise authorized under subsections (a) through (c) of this section. Furthermore, the Community Council retains discretion to prospectively limit, by resolution or ordinance, the types of agreements in which sovereign immunity may be waived even if such agreements otherwise satisfy the requirements set forth herein. (Code 1981, § 17-302; Code 2012, § 1-61; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-61, 5-30-2012)

Sec. 1-151. Financial duties and responsibilities of the institution.

(a) The institution shall maintain financial books and records of account separate and apart from those of the Community and shall generate and maintain reports accurately reflecting the financial position, revenues and disbursements of the Institution in accordance with generally accepted accounting principles and following the Community's fiscal year. Upon reasonable notice and justification, the institution's business and financial records shall be available for inspection and copying by the Community Council and/or treasurer, or their designees. The institution's books of account and financial reports shall be audited by an independent and reputable firm of certified public accountants, approved by the Community Council, and the corresponding audit reports shall be presented to the Community Council and to the Community treasurer in such format as they may from time to time prescribe. Upon reasonable justification, the Community Council may order a special audit of the institution, to be performed either by an independent and reputable firm of certified public accountants or by the Community internal auditor(s) and/or the treasurer.

(b) In order to properly track the assets of the institution, the institution shall maintain a separate tax identification number issued by the United States Internal Revenue Service.

(c) The institution shall adopt an annual operating budget of revenues and expenditures based upon the Community's fiscal year which shall be in such form as may be prescribed from time to time by the Community Council and the Commu-

nity treasurer. The budget shall be approved by the institution's board of directors before it is presented to the Community Council for its approval. The Community Council must approve the budget and appropriate money before the institution can expend such funds. Any amendments to an approved budget that would exceed the total amount of the approved budget also must be approved by council before the institution can expend such funds. Subject to the limitations in this division within this Community Code of Ordinances, individual transactions, loans or investments are to be made within the discretion of the institution without the requirement of prior Community Council approval.

(d) The highest dollar amount of indebtedness or liability, direct or contingent to which the institution may at any time subject itself, either in the aggregate, or for a specific transaction or undertaking, may be determined and directed, from time to time, by the Community Council. Review and approval by the Community Council shall be required only for any transaction or undertaking in excess of such amount.

(e) Contributions to the institution shall be contributions to the Community and as such shall qualify as deductions for federal and Arizona state income, estate and gift tax purposes pursuant to the terms of the Internal Revenue Code and the Arizona state tax statutes pertaining to the deductibility of such contributions. All such contributions shall be dedicated exclusively to the purposes of the institution, including without limitation the payment of the expenses of operating the institution, and such contributions shall not be applied to any extent whatever by the council or the institution toward any other purpose.

(f) At least once each fiscal quarter, the institution shall appear before and report to the Community Council regarding its activities. (Code 1981, § 17-303; Code 2012, § 1-62; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-62, 5-30-2012)

Sec. 1-152. The board of directors.

(a) The affairs of the institution shall be governed by a board of directors.

(b) The board of directors shall consist of seven voting members. The number of board members may be increased or decreased from time to time by written amendment to this division within this Community Code of Ordinances. No decrease in the number of board members shall have the effect of shortening the term of office of any incumbent board member.

(c) Classification and term of office.

- (1) The initial members of the board of directors shall be appointed by the Community Council and shall be divided into three classes, designated class 1, class 2 and class 3, as follows:
 - a. *Class 1 shall consist of three members.* Class 1 members shall have an initial term of office expiring on September 30 of the second year following the year in which their initial appointment occurs, or until their successors are appointed to take office, whichever is later.
 - b. *Class 2 shall consist of two members.* Class 2 members shall have an initial term of office expiring on September 30 of the third year following the year in which their initial appointment occurs, or until their successors are appointed to take office, whichever is later.
 - c. *Class 3 shall consist of two members.* Class 3 members shall have an initial term of office expiring on September 30 of the fourth year following the year in which their initial appointment occurs, or until their successors are appointed to take office, whichever is later.
- (2) After the expiration of the initial term of class 1, class 2, and class 3 board members, the term of office of each of said classes shall be three years from the expiration of the terms for each class of directors as set forth above, or until their successors are appointed and take office, whichever is later.

(3) Board members shall be eligible for reappointment.

(d) The qualifications of the voting board members shall be as follows:

- (1) At least four members shall be enrolled members of the Community, three of which are not members of the Community Council or employees of the institution.
- (2) At least one member shall be an enrolled member of the Community who owns a home.
- (3) At least one member shall be an enrolled member of the Community who maintains voting control of a business.
- (4) One member shall be an active member of the Community Council when appointed. Such member shall be appointed by the Community Council from among its active membership.
- (5) At least one member shall be a resident of the Salt River District, and at least one member shall be a resident of the Lehi District. This requirement may be fulfilled only through the representatives designated in subsections (d)(1) through (3) and (d)(6) through (8) of this section.
- (6) At least one member shall be a person who has extensive professional or management experience in the banking industry. Preference shall be given to qualified enrolled Community members in making this appointment.
- (7) At least one member shall be a person who has extensive professional or management experience in the mortgage or business lending industry. Preference shall be given to qualified enrolled Community members in making this appointment.
- (8) At least one member shall be a person who has extensive professional or management experience in the credit counseling or financial management and education industry. Preference shall be given to qualified enrolled Community members in making this appointment.

(e) Except as provided in subsection (d)(2) of this section, after the expiration of the initial term of class 1, class 2, and class 3 board members, all board members shall be selected only after an application and interview process to be conducted and supervised by no less than two active board members. Based on such process, the remaining active members of the board of directors, by absolute majority vote, shall appoint new board members.

(f) Vacancies.

- (1) Any board member may resign at any time by giving written notice to the chairperson of the board and the Community Council. Resignations shall become effective at the time specified in writing therein; the acceptance of such resignation shall not be necessary to make it effective. Any time there is a resignation or vacancy, the board shall notify the Community Council. Any vacancy on the board because of death, resignation, removal, or other cause shall be filled for the unexpired portion of that term in accordance with subsection (e) of this section.
- (2) In the event a board member becomes temporarily incapacitated or otherwise unable to perform his or her duties as defined herein, the remainder of the board, by a simple majority vote, may appoint an interim board member to serve as a replacement. An interim board member may serve no more than six months, at which point the temporarily replaced board member must reassume his or her position, or the position shall be declared vacant and filled for the unexpired portion of the term in accordance with subsection (e) of this section.
- (3) Removal for cause. A board member may be removed involuntarily from the board prior to the expiration of his or her term in accordance with the following procedures:
 - a. A request for removal of a board member may be initiated by filing with the chairperson of the board a

written notice specifying the cause for removal signed by not less than three other board members.

- b. The cause for removal shall be limited to the following during the terms of membership:
 1. Conviction or judgment of liability in any federal, state or tribal court of a felony or of any of the following offenses, as defined in this Community Code of Ordinances:
 - (i) Violence or assault on a Community law enforcement officer or judge;
 - (ii) Obstructing criminal investigation or prosecution;
 - (iii) Destroying evidence;
 - (iv) Perjury;
 - (v) Bribery;
 - (vi) Cheats and frauds;
 - (vii) Extortion;
 - (viii) Forgery;
 - (ix) Embezzlement;
 - (x) Disposing of property of an estate;
 - (xi) Theft; or
 - (xii) Misbranding;
 2. Gross neglect of duty;
 3. Malfeasance in office or conduct which amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the institution; or
 4. Any other conduct, act or omission that could reasonably be characterized as posing a significant risk to the health, safety, welfare, reputation, integrity and/or prosperity of the board of directors, the institution and/or the Community.
- c. Not less than 15 nor more than 30 days following receipt of the written request for removal, the remaining

active board members shall conduct a hearing and vote on the removal or retention of the board member. Before any vote is taken, the board member shall be given a full opportunity, either in person or through a representative of his or her choice, to answer or otherwise respond to any and all charges against him or her.

- d. To remove a board member from the board for cause, the affirmative vote of at least a majority of the members of the remaining active board members shall be required.

(g) Regular meetings of the board of directors shall be held at least once every three months for the purpose of reviewing the institution's recent operations, making plans for ensuing operations, and the transaction of such other business as may come before these meetings. The first regular meeting in each fiscal year shall also be the annual meeting of the board of directors. At the annual meeting, the board of directors shall review the preceding year's operations and transact such other business as may come before the meeting. The chairperson of the board of directors and the executive director shall present reports of the year's activities to institution representatives and other attendees at the annual meeting. The regular meetings shall be held at the time and place specified by the chairperson of the board. Recorded minutes must be kept for all annual and regular meetings.

(h) Special meetings of the board of directors may be called by the chairperson of the board or jointly by any three members of the board of directors. Meetings shall be held at the time and place specified by the person or persons calling such meeting. Written minutes must be kept for all special meetings.

(i) Four board members present shall constitute a quorum for the transaction of business at any meeting of the board of directors.

(j) The act of a majority of the board members present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required elsewhere in this article. Each member of the

board of directors, including the board member presiding at the meeting of the board of directors, shall be entitled to one vote.

(k) Any action that may be taken at a meeting of the board of directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all active board members. Action by unanimous consent, however, must be initiated by the chairperson of the board of directors, and all signatures of such written consent must be in the hands of the chairperson of the board of directors within 30 days following initiation of such action.

(1) The board of directors shall adopt:

- (1) Bylaws and other policies for the governance of the institution;
- (2) Personnel policies that will include procedures for the resolution of grievances of nonprobationary employees, which policies must be consistent with the laws and policies of the Community; and
- (3) An ethics policy for board members that includes a conflict of interest statement in a form approved by the office of the general counsel and consistent with the laws and policies of the Community to be reviewed and signed by all board members prior to a continuing member voting at the second board meeting after the effective date of the ordinance from which this division within this Community Code of Ordinances is derived and a new member attending any board meeting.

(m) The duties of the board of directors shall be to manage the affairs of the institution, to carry out its purposes by integrating successful lending and education functions, to raise funds from public and private contributions and grants in furtherance of its purposes, to borrow funds from the Community or from other sources, to manage prudently the funds of the institution, to disburse the funds of the institution in furtherance of its purposes, and to report to the Community Council upon its activities and financial affairs quarterly or more frequently if so directed by the council.

(n) The board of directors shall have the authority to create and discontinue such work committees for specific purposes as it may deem necessary or desirable to carry out the purposes of the institution. As long as they exist and transact business, such committees, and their work, purposes and membership, shall be described in the bylaws adopted by the board of directors.

(o) The board of directors shall be subject at all times and as to all of its activities and functions to the supervision and control of the Community Council in recognition of the institution's status as an integral part of the Community.

(p) The fees or stipend for the board of directors under this division within this Community Code of Ordinances shall be set by the board of directors, but shall at all times be subject to any effective Community and/or Community Council policies with respect to board fees and stipends, including without limitation Community human resources policies regarding work hours and attendance of board meetings during work hours.

(q) No board member, officer or employee of the institution may have any direct or indirect financial interest that conflicts or appears to conflict substantially with the responsibilities and duties as board members, officers and employees. No board member, officer or employee of the institution shall engage in financial transactions as a result of, or otherwise make use of for private gain, information obtained through his or her status as a board member, officer or employee of the institution. In addition, no board member, officer or employee of the institution shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value, from any person, corporation, group or entity that has interests in or relationship with, or is seeking to obtain contractual or other business or financial relationship with the institution, or that conducts or seeks to conduct operations or activities that are regulated by the institution, or that has interests that may be affected by the board member's, officer's or employee's performance or nonperformance of his or her official duties for the institution. Board members, officers and employees may, however, accept, within the bounds of good taste, social amenities

and tokens of negligible monetary value as are consistent with generally prevailing customs. board members, officers and employees may not use any property of the institution for purposes other than officially approved activities.

(Code 1981, § 17-304; Code 2012, § 1-63; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-63, 5-30-2012)

Sec. 1-153. The institution's officers.

(a) The officers of the institution shall include a chairperson, a vice-chairperson, a secretary, a treasurer, and additional officers as determined by the board. Unless otherwise indicated herein, the board of directors shall elect each officer from its voting and ex officio (nonvoting) members. Other officers and assistant officers as may be deemed necessary may be elected by an absolute majority of all members of the board of directors, and their duties may be defined in the institution's bylaws. Unless approved by a unanimous vote of the board of directors, or unless temporarily holding an office on an emergency basis, no person may simultaneously hold more than one office.

- (1) The board may elect such other officers of the institution as it may deem appropriate in the interests of the efficient management of the institution's affairs.
- (2) All officers elected by the board shall hold office for a period of one year, or until their successors are elected, unless removed from office by the board as provided in the bylaws or in a manner consistent with the vacancy of board positions as described in section 1-152(f).

(b) In the event an officer becomes temporarily incapacitated or otherwise unable to perform his or her duties as defined herein, the remainder of the board, by a simple majority vote, may appoint an interim officer to serve as a replacement. An interim officer may serve no more than six months, at which point the temporarily replaced officer must reassume his or her position, or the board must elect a permanent replacement officer in accordance with subsection (a) of this section.

(c) Chairperson of the board. If present, the chairperson of the board shall preside at the meetings of the board of directors. The chairperson shall be the chief executive officer of the institution. Together with the executive director and Community Council representative(s), the chairperson shall act as the institution's primary liaison to the Community and to the Community Council. As such, the chairperson shall be responsible for presenting reports and requests to the Community Council as necessary. Subject to the board of directors' control, the chairperson shall supervise the business and affairs of the institution, and together with the institution's administrative and fiscal staff, all assets of the institution. Together with the executive director, the chairperson, or an authorized designee thereof, shall sign any contract, purchase order, check or other instrument which the board of directors has authorized to be executed, except in cases where the signing and execution thereof shall be especially delegated by the board of directors or by this division within this Community Code of Ordinances to some other officer or agent of the institution, or shall be required by law to be otherwise signed and executed. The chairperson of the board shall perform such other duties as from time to time may be prescribed by the board of directors and/or set forth in the institution's bylaws.

(d) Vice-chairperson. The vice-chairperson shall be responsible for coordinating and supervising the affairs of the work committees referenced in section 1-152(n). In the absence of the chairperson of the board, or in the event of the chairperson's death, inability or refusal to act, the vice-chairperson shall perform the duties of the chairperson of the board and, when so acting, shall have all the powers and be subject to all restrictions upon the chairperson of the board. The vice-chairperson, acting as chairperson, shall have all of the same powers as the chairperson. The vice-chairperson shall perform such other duties as from time to time may be prescribed by the chairperson of the board or the board of directors.

(e) Secretary. The secretary shall keep or cause to be kept the minutes of the meetings of the board of directors in one or more books provided

for that purpose. In the alternative, the institution may employ a recording secretary to keep records of meetings and other important events and transactions of the board of directors. In such case, the recording secretary will be selected by an application and interview process supervised by the secretary. The secretary shall see that all notices are duly given in accordance with the provisions of the Charter. In addition, the secretary shall be responsible for the board's records and maintain an up-to-date mailing list of all officers and board members. The secretary shall perform such other duties as from time to time may be prescribed by the board of directors and/or set forth in the institution's bylaws. In lieu of electing a secretary from the board's membership, the board, by vote of an absolute majority of its members, may appoint a secretary from outside its membership or elect not to have a secretary. In the event a nonmember of the board is appointed as secretary, the secretary shall attend board meetings as an ex officio (nonvoting) member of the board.

(f) Treasurer. Except to the extent the same shall be delegated to management, the treasurer of the institution shall have charge and custody of, and be responsible for, all funds and securities of the institution, receive and give receipts for monies due and payable to the institution from any source whatsoever, and deposit all monies in the name of the institution in such depositories as shall be selected. Together with the executive director (whose duties are described in section 1-152), the treasurer shall consult monthly with the institution's administrative and fiscal staff to prepare monthly reports on the institution's income and expenses. The treasurer shall act as the institution's liaison with banking and investment institutions, shall co-sign or indorse all institution checks and other negotiable instruments for disbursement or deposit. The treasurer shall perform all the duties incident to the office of treasurer and such other duties as from time to time may be prescribed by the chairperson of the board or the board of directors. In lieu of electing a treasurer from the board's membership, the board, by vote of an absolute majority of its members, may appoint a treasurer from outside its membership. In the event a nonmember of the board is

appointed as treasurer, the treasurer shall attend board meetings as an ex officio (nonvoting) member of the board.

(g) Additional officers. The director of the Community development department, the director of the Community housing division and the Community treasurer, or duly authorized designees thereof, shall be officers of the institution and shall attend board meetings as ex officio (nonvoting) members of the board.

(Code 1981, § 17-305; Code 2012, § 1-64; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-64, 5-30-2012)

Sec. 1-154. Executive director.

The institution's board of directors, by vote of an absolute majority of all members, shall appoint and retain an executive director to act as the high-ranking full-time employee of the institution. The executive director is the chief administrative and executive official of the institution, subject to the authority of the board of directors, and shall perform such duties as are designated in a position description approved by the board of directors, as well as such further duties as are assigned to him or her by the board of directors. Together with the treasurer, the executive director shall consult monthly with the institution's administrative and fiscal staff to prepare monthly reports on the institution's income and expenses. The executive director shall also oversee the preparation of the institution's budgets. The executive director shall supervise the institution's efforts in connection with the annual audit and ensure that all financial reports and records are timely submitted to the appropriate organization or agency requesting such reports and records. The executive director shall attend meetings of the board of directors and shall be an ex officio (nonvoting) member of the board of directors and all committees except as otherwise provided. The executive director shall hold office in accordance with the personnel policies and procedures established by the board of directors and shall be deemed to be an officer of the Salt River Financial Services Institution. While in service for the institution, the executive director shall be ineligible to sit on the board of directors for any other Community division, enterprise, affiliate or entity.

(Code 1981, § 17-306; Code 2012, § 1-65; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-65, 5-30-2012)

Sec. 1-155. Indian preference in employment.

The institution shall maintain effective policies for giving preference in hiring, promotion, and training to qualified Community members in all levels of employment, including specifically in the employment of officers and other management employees. Effective preference policies shall be developed and adopted by the institution consistent with Community law and policies. The institution shall, in furtherance of the policies so developed, advise Community employment officials of job openings as soon as possible and give full consideration to any Community member referred to the institution for any job opening. The Indian preference policies shall provide for and require training programs to prepare Community members for hiring and promotion in all levels of employment

(Code 1981, § 17-307; Code 2012, § 1-66; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-66, 5-30-2012)

Sec. 1-156. Reports to the Community Council.

(a) The institution shall provide written reports to the council on its operations and significant activities and events in each calendar quarter within 45 days after the close of the quarter. The reports shall include at least the following information as well as any other information the council may request:

- (1) Income statements showing revenues and disbursements for the quarter and for the fiscal year to date with comparisons to the operating budget and capital expenditures with comparisons to the capital expenditures budget.
- (2) A description of all limited waivers of sovereign immunity given in connection with a routine business transaction pursuant to section 1-150, or in connection with any transaction entered into by the institution pursuant to section 1-150.
- (3) A list and brief description of any claims asserted against the institution by way of a lawsuit. The institution shall also advise of any threats of lawsuit.

- (4) An assessment of the impact of the institution's activities on the Community's sovereign political status and on the Community's cultural preservation objectives.
- (5) The report shall state the number of persons employed by the institution, the number of employees who are members of the Community, and the number of employees who are enrolled members of other Indian Tribes and the number of Community member employees who left employment during that period.

(b) Prior to the end of each fiscal year the institution shall present to the Community Council and obtain approval of its budget for the next fiscal year, first from the institution's board of directors and then from the Community Council. This presentation shall be made both orally and in writing. Any amendment to the budget following its original adoption shall be reported to the council as part of the report for the quarter in which the amendment was approved by the institution's board of directors.

(c) The institution's report for the fourth quarter of each fiscal year shall be made by written and oral presentation to the council and shall include, in addition to the information requested in subsection (a) of this section, financial statements for the concluded fiscal year.

(d) From time to time the Community treasurer's office may provide formats for the quarterly presentations and may request that additional information be included.

(e) The Community Council may request additional or supplemental reports at any time. (Code 1981, § 17-308; Code 2012, § 1-67; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-67, 5-30-2012)

Sec. 1-157. Miscellaneous.

(a) The Community's general counsel or his or her designee shall serve as legal counsel to the institution. The general counsel or his or her designee shall be present during all board meetings. Outside legal counsel may be retained by the

institution with approval by the Community Council and the Community's general counsel and in accordance with an approved budget.

(b) The board of directors is responsible for determining management's compensation based upon the goals of the institution.

(c) The board of directors shall appoint an audit committee comprised of at least three board members, as well as one other person with a financial or auditing background who will provide advice and counsel to the audit committee. In cooperation with the Community treasurer's office, the audit committee shall meet with the external auditors of the institution prior to the beginning of the audit to advise them of any concerns or areas of emphasis for the audit, as well as after the audit is completed to receive and review the audit report.

(d) The board members and officers of the institution shall not be liable for the debts of the institution, the private property of the board members and officers of this institution shall be forever exempt from its debts, and the Community indemnifies and shall hold harmless the institution's employees, the board members and officers from liability or other claim arising out of their duties of or function as institution employees, board members or officers. This indemnity and protection from personal liability shall not extend to those actions or activities of the board members or officers, or institution employees, who create liability in relation to their intentionally wrongful acts or omissions, and/or who create liability for themselves or the institution by exceeding the scope of their official duties, responsibilities or obligations.

(Code 1981, § 17-309; Code 2012, § 1-68; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-68, 5-30-2012)

Sec. 1-158. Compliance with certification requirements.

All activities and operations of the institution are subject to the federal legal requirements, terms and conditions related to the certification of the institution as a Community development financial institution. Such federal legal requirements, terms and conditions are hereby incorpo-

rated into this division within this Community Code of Ordinances by reference and take precedence over any requirements, terms and conditions herein, or in the institution's bylaws. (Code 1981, § 17-310; Code 2012, § 1-69; Ord. No. SRO-311-06, 4-5-2006; Ord. No. SRO-402-2012, § 1-69, 5-30-2012)

Secs. 1-159—1-184. Reserved

DIVISION 7. SADDLEBACK COMMUNICATIONS COMPANY

Sec. 1-185. Established.

(a) There is established a division of the Community to be known as Saddleback Communications Company.

(b) The communications division shall maintain its principal place of business and offices in the Community.

(c) The communications division shall be in the business of developing and operating an electronic communications business utilizing Telephony and Central Office Equipment and such other related activities as the Community Council may from time to time determine the communications division shall undertake.

(d) The purposes of the communications division are to provide telephony and related communications services to members of the Community and to commercial enterprises located within the Community in order to promote commercial development within the Community so as to enable the Community to survive and prosper as an independent Indian Community by creating a viable economy for the Community.

(e) In furtherance, and not in limitation, of the general powers conferred by this division of the Community and of the purposes hereinbefore stated and in conformity with the policies of the Community Council, the communications division shall also have the following powers which shall be exercised by the board of the communications division or delegated by it to communications division officers or employees:

- (1) To enter into, make and perform contracts of every kind and description with any

firm, person, association or corporation, tribal government, municipality, country, territory, state government or dependency thereof, subject only to the following restrictions:

- a. The communications division may lease real property from another, or sublease or permit the use of real property to another, only with the approval of the Community Council. It may lease real property from the Community or receive the use of real property by a designation of use of real property by the Community Council.
- b. The communications division shall not enter into any contract that requires expenditures from the communications division in excess of the communications division's board-approved budget for the subject matter of any such contract without an amendment to the communications division's budget.

- (2) To borrow money for any of the purposes of the communications division, and in connection therewith to make, draw, execute, accept, endorse, discount, pledge, issue, sell or otherwise dispose of promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other evidences of indebtedness, negotiable or nonnegotiable, transferable or not transferable, and grant collateral or other security to secure the indebtedness, provided that the collateral or security are the thing or things purchased with the funds borrowed in the same transaction (purchase money collateral), and with the specific approval of the Community, the board may grant collateral or other security other than purchase money collateral or security as described herein and with such approval issue jointly with any other person, associates or firm any evidences of indebtedness as described in this subsection. Any borrowing by the communi-

cations division from the Community shall be treated as a like borrowing from any commercial lender.

- (3) To adopt an annual budget of income, expenses and capital expenditures approved by the Community Council.
- (4) To conduct banking relationships necessary to the operation of the communications division, to establish a uniform system of accounting, to provide for the annual auditing by a certified public accountant, of the books of the communications division and to report the financial condition of the communications division to the Community Council quarterly.
- (5) To periodically transfer to the Community funds excess to the operating needs of the communications division. The communications division will make such transfers at the direction of the board or at the direction of the Community Council.
- (6) To enter into arrangements with departments of the Community to provide assistance in accounting, personnel selection, purchasing or other services as the board may from time to time determine and to enter into contracts for goods and services with any division of the Community or other business entities.
- (7) To hire, promote and discharge such personnel as may be required to conduct the affairs of the communications division, provided that the terms and conditions of employment, including wages and benefits (including any pension plans or other deferred compensation arrangements) paid and personnel policies used and disciplinary procedures utilized shall be subject to the approval of the Community Council.
- (8) To conduct the business of the communications division in accordance with the laws, and except as communications division policies and procedures have been approved by the Community Council, the policies of the Community.
- (9) To exercise such powers as are necessary to effect the purposes for which the divi-

sion is organized and consistent with this division within this Community Code of Ordinances.

(f) The communications division shall carry out such activities as shall be directed by the Community Council.

(g) The general business of the communications division shall be conducted by a board which shall consist of seven voting members who shall be appointed by the Community Council. The qualifications of the members are as follows:

- (1) The general manager of the communications division.
- (2) A member of the Community Council, who shall serve at the pleasure of the council.
- (3) Three members shall be members of the Community.
- (4) Two members of the board shall have extensive professional or management experience in electronic communications and telecommunications development, maintenance, operation and/or banking and finance business. The Community Council will accord preference to Native Americans in the appointments under this subsection.

The general manager will serve as a member of the board during the term of his or her employment. The member of the Community Council appointed under subsection (g)(2) of this section shall serve for the period of such member's council term or thereafter until a successor is appointed by the Community Council. Upon the recommendation of the board and subsequent ratification by the Community Council the appointment of board members (representing subsection (g)(3) and (4) of this section) shall be modified as follows. One of the three board members in subsection (g)(3) of this section shall have a one-year term, one a two-year term, and one a three-year term. One of the two board members in subsection (g)(4) of this section shall have a two-year term and one a three-year term. Members who are thereafter appointed for a full term will serve a three-year term as provided hereinafter. All other board members shall serve at the pleasure of the Com-

munity Council and if not earlier removed by the Community Council shall serve for a term of three years or thereafter until their successors are appointed by the Community Council.

(h) The officers of the communications division shall consist of a chairperson of the board, president, secretary and treasurer, and such additional officers, as the board may deem necessary. The general manager shall serve as president of the communications division. The board at its annual meeting shall elect all officers except the president, treasurer and secretary. The treasurer of the Community or his or her designee will serve as treasurer of the communications division and the general counsel of the Community or his or her designee will serve as secretary of the communications division. The officers elected by the board shall hold office for a period of one year, or until their successors are elected, unless removed from office by the board as provided in the bylaws. Except for the chairperson and the president, officers need not be members of the board. The president of the Community may from time to time assign employees of the Community to perform functions for the communications division and attend board meetings of the communications division.

(i) The board shall have the power to adopt, amend, rescind and repeal bylaws and to elect and appoint such agents and committees as it may deem necessary, with such powers as it may confer.

(j) The highest amount of indebtedness or liability, direct or contingent to which the communications division may at any time subject itself shall be determined, from time to time, by the Community Council.

(k) The board members and officers of the communications division shall not be liable for the debts of the communications division, the private property of the board members and officers of this communications division shall be forever exempt from its debts and the Community indemnifies and shall hold harmless the communications division employees, the board members and officers from liability or other claim arising

out of their duties of or function as communications division employees, board members or officers.

(l) Nothing in this division within this Community Code of Ordinances shall exempt the communications division from full compliance with ordinances of the Community and this division within this Community Code of Ordinances does not repeal or amend any other ordinance or resolution of the Community.

(Code 2012, § 1-75; Ord. No. SRO-276-01, 3-21-2001; Ord. No. SRO-402-2012, § 1-75, 5-30-2012)

Sec. 1-186. Capitalization; financial responsibility.

(a) The communications division shall be capitalized as shall be determined by the Community Council.

(b) The communications division shall be responsible for the payment of all indebtedness of the communications division and the Community hereby expressly waives any and all defenses based on its sovereign immunity from suit with respect to any action:

- (1) Based on contract for money;
- (2) Based on the replevin of personal property; and
- (3) For damages arising out of tort when the damage claim is fully covered by insurance owned by the communications division;

and provided in each case that such action is brought in the Community court and no other court of the United States or of any state.

(c) The waiver and consent in subsection (b)(1) and (2) of this section is limited to any assets of the Community which have been obtained by the communications division as a result of the operation of the business of the communications division or held in the accounts of the communications division in the name of the communications division; provided, however, that such waiver and consent shall not extend to assets transferred from the communications division to accounts in the name of the Community, and to amounts payable to the Community by the communica-

tions division. All obligations incurred in connection with the communications division shall be special obligations of the communications division payable solely from the assets described in this subsection. The communications division shall accept service of process upon the communications division by delivery to any officer or managing agent of the communications division.

(Code 2012, § 1-76; Ord. No. SRO-276-01, 3-21-2001; Ord. No. SRO-402-2012, § 1-76, 5-30-2012)

Secs. 1-187—1-210. Reserved.

DIVISION 8. PHOENIX CEMENT COMPANY

Sec. 1-211. Established.

(a) There is established a division of the Community to be known as Phoenix Cement Company, a division of the Community.

(b) The cement division shall maintain its principal place of business and offices in Maricopa and Yavapai Counties, Arizona.

(c) The cement division shall be in the business of cement manufacturing and marketing.

(d) The purposes of the cement division are to promote the economic self-sufficiency of the Community so as to enable the Community to survive and prosper as an independent Indian Community by earning profits to sustain the Community's necessary governmental programs.

(e) In furtherance, and not in limitation, of the general powers conferred by this division of the Community and of the purposes hereinbefore stated and in conformity with the policies of the Community Council, the cement division shall also have the following powers which shall be exercised by the board of the cement division or delegated by it to cement division officers or employees:

- (1) To enter into, make and perform contracts of every kind and description with any firm, person, association or corporation, tribal government, municipality, country,

territory, state government or dependency thereof, subject only to the following restrictions:

- a. The cement division shall not enter into any lease of real property without the approval of the Community Council.
 - b. The cement division shall not enter into any contract which requires expenditures from the cement division in excess of the cement division's board-approved budget for the subject matter of any such contract without an amendment to the cement division's budget.
- (2) To borrow money for any of the purposes of the cement division, and, in connection therewith, to make, draw, execute, accept, endorse, discount, pledge, issue, sell or otherwise dispose of promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other evidences of indebtedness, negotiable or nonnegotiable, transferable or not transferable, and grant collateral or other security to secure the indebtedness provided that the collateral or security are the thing or things purchased with the funds borrowed in the same transaction (purchase money collateral) and with the specific approval of the Community Council, the board may grant collateral or other security other than purchase money collateral or security as described herein and with such approval issue jointly with any other person, associates or firm any evidences of indebtedness as above described. Any borrowing by the cement division from the Community shall be treated as a like borrowing from any commercial lender.
 - (3) To adopt an annual projection of income and expenses approved by the board.
 - (4) To establish a uniform system of accounting, to provide for the annual auditing by a certified public accountant, of the books of the cement division and to report the financial condition of the cement division to the Community Council quarterly.

- (5) To periodically transfer to the Community funds excess to the operating needs of the cement division.
- (6) To enter into arrangements with departments of the Community to provide assistance in accounting, personnel selection, purchasing or other services as the board may from time to time determine and to enter into contracts for goods and services with any division of the Community.

(f) The general business of the cement division shall be conducted by a board which shall consist of seven members who shall be appointed by the Community Council. The qualifications of the members are as follows:

- (1) The president of the Community. The president shall serve as chairperson of the board during the same term.
- (2) The chief executive officer of the division. The chief executive officer shall serve as president of the cement division during the same term.
- (3) The general manager of Salt River Sand and Rock Company, a division of the Community.
- (4) Three members shall be members of the Community and one of them shall be a member of the Community Council.
- (5) One member of the board shall have extensive professional or management experience in the cement or allied construction industry, banking and finance or structural or civil engineering.

The president of the Community, the general manager of Salt River Sand and Rock Company and the president of the Phoenix Cement Company shall serve as members of the board for the time that member occupies the office which qualifies such member to serve as a board member. Any board member who is qualified under subsection (f)(4) or (5) of this section shall serve at the pleasure of the Community Council and if not earlier removed by the Community Council shall serve for a term of two years or thereafter until their successors are elected by the Community Council.

(g) The officers of the cement division shall consist of a chairperson of the board, president, secretary and treasurer, and such additional officers as the board may deem necessary. The chairperson of the board shall be the person who is the president of the Community. The president shall be the person employed by the Community as the chief executive officer of the cement division. All other offices shall be subject to annual election by the board at its annual meeting. The officers elected by the board shall hold office for a period of one year, or until their successors are elected and shall have qualified, unless removed from office by the board as provided in the bylaws. Except for the chairperson and the president, officers need not be members of the board. The chairperson may from time to time assign employees of the Community to perform functions for the division and attend board meetings of the cement division.

(h) The board shall have the power to adopt, amend, rescind and repeal bylaws and to elect and appoint such agents and committees as it may deem necessary, with such powers as it may confer.

(i) The highest amount of indebtedness or liability, direct or contingent to which the cement division may at any time subject itself shall be determined, from time to time, by the Community Council.

(j) The board members and officers of the cement division shall not be liable for the debts of the cement division, the private property of the board members and officers of this cement division shall be forever exempt from its debts and the Community indemnifies and shall hold harmless the board members and officers from liability or other claim arising out of their duties of or function as board members or officers.

(k) Nothing in this division within this Community Code of Ordinances shall exempt the cement division from full compliance with ordinances of the Community and this division does not repeal or amend any other ordinance or resolution of the Community.

(Code 2012, § 1-80; Ord. No. SRO-172-94, 3-30-1994; Ord. No. SRO-402-2012, § 1-80, 5-30-2012)

Sec. 1-212. Capitalization; financial responsibility.

(a) The cement division shall be capitalized by ownership of all of the equipment, vehicles, buildings, accounts receivable, cash and all other assets held in the name of the Phoenix Cement Company, a division of the Community.

(b) The cement division shall be responsible for the obligations of the cement division as more particularly set out in Resolution No. SR-1403-87. (Code 2012, § 1-81; Ord. No. SRO-172-94, 3-30-1994; Ord. No. SRO-402-2012, § 1-81, 5-30-2012)

Secs. 1-213—1-232. Reserved.

DIVISION 9. SALT RIVER SAND AND ROCK COMPANY

Sec. 1-233. Established.

(a) There is established a division of the Community to be known as Salt River Sand and Rock Company, a division of the Community.

(b) The sand and rock division shall maintain its principal place of business and offices at the Community.

(c) The sand and rock division shall be in the business of mining, manufacturing and sales of sand, gravel, rock and like materials, the sales of ready mix material and operation of associated equipment and engaging in the earth moving and excavating business.

(d) The purposes of this division within this Community Code of Ordinances are to promote the economic self-sufficiency of the Community so as to enable the Community to survive and prosper as an independent Indian Community by earning profits to sustain the Community's necessary governmental programs, to train Community members in business affairs to create employment opportunities for Community members and to efficiently develop the Community's resources.

(e) In furtherance, and not in limitation, of the general powers conferred by this division of the Community and of the purposes hereinbefore stated and in conformity with the policies of the Community Council, the sand and rock division

shall also have the following powers which shall be exercised by the board of the sand and rock division or delegated by it to sand and rock division officers or employees:

- (1) To enter into, make and perform contracts of every kind and description with any firm, person, association or corporation, tribal government, municipality, country, territory, state government or dependency thereof, subject only to the following restrictions:
 - a. The sand and rock division shall not enter into any lease of real property without the approval of the Community Council unless such lease has been entered into by its predecessor company before the effective date of the ordinance from which this division within this Community Code of Ordinances is derived.
 - b. The sand and rock division shall not enter into any contract which requires expenditures from the sand and rock division in excess of the sand and rock division's board-approved budget for the subject matter of any such contract without an amendment to the sand and rock division's budget.
- (2) To borrow money for any of the purposes of the sand and rock division, and, in connection therewith, to make, draw, execute, accept, endorse, discount, pledge, issue, sell or otherwise dispose of promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other evidences of indebtedness, negotiable or nonnegotiable, transferable or nontransferable, and grant collateral or other security to secure the indebtedness provided that the collateral or security are the thing or things purchased with the funds borrowed in the same transaction (purchase money collateral) and with the specific approval of the Community Council, the board may grant collateral or other security other than purchase money collateral or security as described herein

and with such approval issue jointly with any other person, associates or firm any evidences of indebtedness as above described. Any borrowing by the sand and rock division from the Community shall be treated as a like borrowing from any commercial lender.

- (3) To adopt an annual projection of income and expenses approved by the board.
- (4) To establish a uniform system of accounting, to provide for the annual auditing by a certified public accountant, of the books of the sand and rock division and to report the financial condition of the sand and rock division to the Community Council quarterly.
- (5) To periodically transfer to the Community funds excess to the operating needs of the sand and rock division.
- (6) To enter into arrangements with departments of the Community to provide assistance in accounting, personnel selection, purchasing or other services as the board may from time to time determine and to enter into contracts for goods and services with any division of the Community.

(f) The general business of the sand and rock division shall be conducted by a board which shall consist of seven members who shall be appointed by the Community Council. The qualifications of the members are as follows:

- (1) The president of the Community. The president shall serve as chairperson of the board during the same term.
- (2) The general manager of the sand and rock division. The general manager shall serve as president of the sand and rock division during the same term.
- (3) The president of Phoenix Cement Company.
- (4) Two members shall be members of the Community and one of them shall be a member of the Community Council.
- (5) Two members of the board shall have extensive professional or management ex-

perience in the aggregate or some allied construction industry, banking and finance or structural or civil engineering.

The president of the Community, the general manager of Salt River Sand and Rock Company and the president of Phoenix Cement Company shall serve as members of the board for the time that member occupies the office which qualifies such member to serve as a board member. Any board member who is qualified under subsection (f)(4) or (5) of this section shall serve at the pleasure of the Community Council and if not earlier removed by the Community Council shall serve for a term of two years or thereafter until their successors are elected by the Community Council.

(g) The officers of the sand and rock division shall consist of a chairperson of the board, president, secretary and treasurer, and such additional officers as the board may deem necessary. The chairperson of the board shall be the person who is the president of the Community. The president shall be the person employed by the Community as the general manager of the sand and rock division. All other offices shall be subject to annual election by the board at its annual meeting. The officers elected by the board shall hold office for a period of one year, or until their successors are elected and shall have qualified, unless removed from office by the board as provided in the bylaws. Except for the chairperson and the president, officers need not be members of the board. The chairperson may from time to time assign employees of the Community to perform functions for the sand and rock division and attend board meetings of the sand and rock division.

(h) The board shall have the power to adopt, amend, rescind and repeal bylaws and to elect and appoint such agents and committees as it may deem necessary, with such powers as it may confer.

(i) The highest amount of indebtedness or liability, direct or contingent to which the sand and rock division may at any time subject itself shall be determined, from time to time, by the Community Council.

(j) The board members and officers of the sand and rock division shall not be liable for the debts of the sand and rock division, and the private property of the board members and officers of the sand and rock division shall be forever exempt from its debts and the Community indemnifies and shall hold harmless the board members and officers from liability or other claim arising out of their duties of or function as board members or officers.

(k) Nothing in this division within this Community Code of Ordinances shall exempt the sand and rock division from full compliance with ordinances of the Community and this division does not repeal or amend any other ordinance of the Community.

(Code 2012, § 1-85; Ord. No. SRO-168-93, 6-30-1993; Ord. No. SRO-402-2012, § 1-85, 5-30-2012)

Sec. 1-234. Capitalization; financial responsibility

(a) The sand and rock division shall be capitalized by:

- (1) Ownership of all of the equipment, vehicles, buildings, accounts receivable, cash and all other assets held by the Community in the operation of the Salt River Sand and Rock Company as a result of the dissolution of the Salt River Sand and Rock Company partnership; and
- (2) The cash or cash equivalent contribution to the sand and rock division by the Community Council in an amount to be determined by the council.

(b) The sand and rock division shall be responsible for the payment of all indebtedness of the sand and rock division and the Community hereby expressly waives any and all defenses based on its sovereign immunity from suit with respect to any action based on the following:

- (1) Contract for money;
- (2) The replevin of personal property; and
- (3) Damages arising out of tort when the damage claim is fully covered by insurance owned by the sand and rock division, and provided in each case that such action

is brought in the Community court and no other court of the United States or of any state.

(c) The waiver and consent is limited to any assets of the Community which are obtained by the sand and rock division through the operation of the business of the sand and rock division or held in the accounts of the sand and rock division in the name of the sand and rock division; provided, however, that such waiver and consent shall not extend to assets transferred from the accounts or business of the sand and rock division to other accounts of the Community, and to amounts payable to the Community by the sand and rock division. All obligations incurred in connection with the sand and rock division including the amount paid and to be paid to A. Wayne Hills in the dissolution of the Salt River Sand and Rock Company shall be special obligations of the sand and rock division payable solely from the assets described in this subsection and its predecessor Salt River Sand and Rock Company. The sand and rock division shall accept service of process upon the sand and rock division by delivery to any officer or managing agent of the sand and rock division.

(Code 2012, § 1-85; Ord. No. SRO-168-93, 6-30-1993; Ord. No. SRO-402-2012, § 1-86, 5-30-2012)

Secs. 1-235—1-261. Reserved.

DIVISION 10. SALT RIVER COMMERCIAL LANDFILL COMPANY

Sec. 1-262. Established.

(a) There is established a division of the Community to be known as the Salt River Commercial Landfill Company, a division of the Community.

(b) The commercial landfill division is an integral part of the Community organized to perform an essential governmental function of the Community. As such, it is subject to the ultimate financial and management control by the council of the Community. The commercial landfill division accordingly has, in the exercise of the powers delegated to it by the council, the full measure of the Community's sovereign immunity, the Community's exemption from federal and state taxa-

tion, and the Community's right to be treated as a state government for the purposes of section 7871 of the Internal Revenue Code of 1986, as such section may be amended or recodified from time to time.

(c) The purpose of this division within this Community Code of Ordinances is promote the economic self-sufficiency of the Community by constructing, maintaining, managing and operating one or more commercial landfills and related facilities and functions for the Community and other entities or jurisdictions with which it might enter into agreements, and to undertake such other responsibilities as may be assigned to it from time to time by the Community Council. (Code 2012, § 1-90; Ord. No. SRO-339-08, § I, 9-24-2008; Ord. No. SRO-402-2012, § 1-90, 5-30-2012)

Editor's note—Ord. No. SRO-339-2008 also repealed Ord. No. SRO-322-2008.

Sec. 1-263. Powers.

(a) The commercial landfill division shall have the power to administer and operate its business enterprise and manage such assets as the Community assigns to the commercial landfill division. In so doing, the commercial landfill division shall function autonomously on a day-to-day basis while remaining ultimately accountable to the Community, and specifically to the Community Council.

(b) In exercising the power to manage and operate its designated business enterprise, the commercial landfill division may enter into contractual transactions without specific approval of the council only in the following circumstances:

- (1) Subject to compliance with the provisions of this section, and subject to the limitations in subsection (c)(1) of this section, the commercial landfill division may enter into contracts without specific approval of the council where the following requirements of the transaction in question are satisfied:
 - a. Is part of the commercial landfill division's ordinary and routine course of business;

- b. Is specifically beneficial to the commercial landfill division; and
- c. Is funded by and consistent with the specific allocations of a commercial landfill division budget that has been approved pursuant to section 1-263(c)(1).

The commercial landfill division is required to regularly consult with the Community's general counsel or his or her designee to determine whether contracts entered into pursuant to this provision are consistent with Community law and satisfactorily protective of the Community's political integrity. Any contract that contains, appears to contain, or may be interpreted to contain a waiver of sovereign immunity must be reviewed and approved by the Community office of the general counsel.

- (2) Subject to compliance with the provisions of this section, and subject to limitations in subsection (c)(1) of this section, and consistent with its approved budget, the commercial landfill division may incur debt for the lease or purchase of equipment and give a security interest in the leased or purchased equipment as collateral for such debt. Any transaction to lease or purchase equipment:
 - a. Must be authorized by a budget that has been approved by the commercial landfill division's board of directors and the council pursuant to subsection (c)(1) of this section; and
 - b. The significant terms of such transaction must be included in the commercial landfill division's report to the council for the quarterly period in which the transaction took place.
- (3) The commercial landfill division shall not enter into any contract or partake in any transaction, without the approval of the Community Council, which requires expenditures or involves financial obligations in excess of the budget approved pursuant to subsection (c)(1) of this section.

- (4) Community Council approval is required for any acquisition, conveyance, leasing or other disposition of real property by the commercial landfill division. For any acquisition by the commercial landfill division of real property, the Community Council shall determine, by resolution, whether such land shall be owned in fee simple absolute by the commercial landfill division, in fee simple absolute by the Community or by the United States in trust for the Community.
- (c) Limitation of liability and financial obligations of the commercial landfill division.
- (1) Unless specifically provided otherwise in a separate resolution adopted by the Community Council, the commercial landfill division's aggregate liability, obligation and financial exposure shall always remain limited solely and specifically to the assets of the commercial landfill division, obtained through the operation of its designated business enterprise. Barring Community Council directive providing otherwise, such liability, obligation and financial exposure shall never include or obligate any real property, personal property or accounts or any other assets of the Community itself, or any other Community division, department, authority, enterprise, subdivision or entity. Barring Community Council directive providing otherwise, no liability, obligation, financial exposure or debt of the commercial landfill division shall extend to those assets transferred from the accounts or business of the commercial landfill division to the accounts of the Community or to amounts payable to the Community by the commercial landfill division.
- (2) All obligations incurred in connection with the commercial landfill division shall be special obligations of the commercial landfill division payable solely from the assets of the commercial landfill division, separate and apart from the assets of the Community.
- (3) The commercial landfill division's obligations are not general obligations of the Community and are limited only to those assets of the commercial landfill division pertaining to any agreement executed pursuant to section 1-262 and this section.
- (4) Unless specifically provided otherwise in a separate resolution adopted by the Community Council, the commercial landfill division may assume responsibility and be liable only in its own name, and never in the name of the Community, or any other Community division, department, authority, affiliate, enterprise, subdivision or entity.
- (5) No claim for liability or any other payment obligation in relation to the activities of the commercial landfill division may be brought against the Community or the Community's other assets or property, including those of other divisions, departments, authorities, affiliates, enterprises, subdivisions or entities of the Community.
- (6) Unless specifically provided otherwise in a separate resolution adopted by the Community Council, the commercial landfill division's liability for a specific project, undertaking or act shall always be expressly limited to actual compensatory damages and shall not include consequential, special or punitive damages.
- (7) Unless specifically provided otherwise in a separate resolution adopted by the Community Council, the commercial landfill division may expressly or impliedly waive its sovereign immunity only under the following circumstances:
- a. Any waiver of sovereign immunity shall be solely for the limited purpose of:
 1. Commencing arbitration;
 2. Enforcing the obligation to arbitrate disputes; and
 3. Enforcing arbitration decisions or awards in accordance with the dispute resolution provisions herein.

Such limited waiver shall extend solely to parties to the documents executed by the Institution and/or affiliated parties, third-party beneficiaries thereto, beneficiaries thereto by virtue of agreements made a part thereof by attachment, incorporation by reference or integration therewith, and any approved successors and assigns. Such limited waiver of sovereign immunity does not extend to any person or entity other than such parties, beneficiaries, approved successors and assigns, or any claims for consequential or punitive damages;

b. The limited waiver of sovereign immunity shall require that the resolution of disputes is to be conducted solely through binding arbitration under the following conditions:

1. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association or, in the case of contracts dealing with a specialized subject matter for which another arbitration system is commonly recognized, in accordance with the rules of such other arbitration system;
2. The arbitration hearing will be conducted in Phoenix, Arizona, before three arbitrators designated in accordance with the AAA rules. In the alternative, the parties to a dispute may mutually agree to submit the matter for consideration by a single arbitrator;
3. The arbitrator(s) shall have no power to depart from or change any provisions of the underlying contract or the applicable arbitration rules, as modified herein;
4. The arbitrator's power, jurisdiction, decisions, and award allowed under the applicable ar-

bitration rules are limited by the choice of law and sovereign immunity provisions herein, or by such provisions as are approved by the Community Council in a separate adopted resolution;

5. The arbitration award or obligation to arbitrate may be enforced only in the Community court or, where authorized by federal law, the United States District Court for the District of Arizona;
6. Any consent to jurisdiction under the applicable arbitration rules is limited to the Community court or, where applicable, United States District Court for the District of Arizona, and excludes jurisdiction in any state court; and
7. The contract or transaction shall provide for such other terms regarding arbitration as are reasonable or customary, including that the arbitrator(s) be knowledgeable in federal Indian law.

c. In the alternative to the arbitration requirements set forth in subsections (c)(7)a and (c)(7)b of this section, and subject to the remaining limitations set forth in subsections (b)(1) through (6) of this section, the commercial landfill division may waive sovereign immunity for the purpose of adjudicating disputed matters in the Community court.

(8) No provisions herein and no action of the commercial landfill division shall be deemed or construed to waive the sovereign immunity of the Community, or any other Community division, department, authority, affiliate, enterprise, subdivision or entity.

(d) The commercial landfill division's board of directors may seek permission from the Community Council for consent to enter into transactions that are not within the powers delegated to the commercial landfill division under subsections (a)—(c) of this section, including the following:

- (1) Purchasing or leasing real property on behalf of the SRPMIC or encumbering real property owned by the Community, provided that the subleasing of real property may be conducted by the commercial landfill division without the SRPMIC council's approval should a master lease or other document covering such real property and approved by the Community Council so provide;
- (2) Entering into any contract or otherwise incurring any obligation in connection with an activity that is not within the ordinary course of the commercial landfill division's business such as, by way of example, construction of significant improvements in real property owned by the Community and the entry into a new business activity;
- (3) Entering into any financial obligation, and executing any associated loan documents, which designate, as collateral or security, property other than that which is identified in subsection (b) of this section;
- (4) Any transaction or act that involves liability, obligation or financial exposure in excess of that which is permitted under the terms of this section and section 1-264.

(e) Notwithstanding the provisions set forth in this section, the Community Council retains discretion to veto agreements and transactions, and to withhold any associated waivers of sovereign immunity, on a case-by-case basis where specific questions are raised regarding certain agreements that are otherwise authorized under this section and sections 1-262 and 1-264. Furthermore, the Community Council retains discretion to prospectively limit, by resolution, the types of agreements in which sovereign immunity may be waived even if such agreements otherwise satisfy the requirements set forth herein.

(Code 2012, § 1-91; Ord. No. SRO-339-08, § II, 9-24-2008; Ord. No. SRO-402-2012, § 1-91, 5-30-2012)

Sec. 1-264. Financial duties and responsibilities.

(a) The commercial landfill division shall maintain financial books and records of account separate and apart from those of the Community and shall generate and maintain reports accurately reflecting the financial position, revenues and disbursements of the commercial landfill division in accordance with generally accepted accounting principles and following the Community's fiscal year. Upon reasonable notice and justification, the commercial landfill division's business and financial records shall be available for inspection and copying by the Community Council and/or treasurer, or their designees. The commercial landfill division's books of account and financial reports shall be audited by an independent and reputable firm of certified public accountants, approved by the Community Council, and the corresponding audit reports shall be presented to the Community Council and to the Community treasurer in such format as they may from time to time prescribe. Upon reasonable justification, the Community Council may order a special audit of the commercial landfill division, to be performed either by an independent and reputable firm of certified public accountants or by the Community internal auditor(s) and/or the treasurer.

(b) In order to properly track the assets of the commercial landfill division, the commercial landfill division shall maintain a separate tax identification number issued by the United States Internal Revenue Service.

(c) The commercial landfill division shall adopt an annual operating budget of revenues and expenditures and a capital expenditures budget based upon the Community's fiscal year which shall be in such form as may be prescribed from time to time by the Community Council and the Community treasurer. The capital expenditures budget shall define the division's plans for capital investments, including material operating leases, and shall state whether the planned investments are intended to be made from cash flow accumulations or from borrowing. The budget shall be approved by the commercial landfill division's board of directors before it is presented to the Community Council for its approval. The Commu-

nity Council must approve the budget and appropriate money before the commercial landfill division can expend such funds. Any amendments to an approved budget that would exceed the total amount of the approved budget also must be approved by the council before the commercial landfill division can expend such funds.

(d) The commercial landfill division shall transfer to the Community its cash flow accumulations to the extent that they exceed the commercial landfill division's operational, capital investment and other requirements, as determined by consultation with the Community treasurer and pursuant to guidelines adopted by the Community Council.

(e) The highest dollar amount of indebtedness or liability, direct or contingent, to which the commercial landfill division may at any time subject itself, either in the aggregate, or for a specific transaction or undertaking, shall be determined and directed, from time to time, by the Community Council. Review and approval by the Community Council shall be required only for any transaction or undertaking in excess of such amount.

(f) At least twice each fiscal year, the commercial landfill division shall appear before and report to the Community Council regarding its activities.
(Code 2012, § 1-92; Ord. No. SRO-339-08, § III, 9-24-2008; Ord. No. SRO-402-2012, § 1-92, 5-30-2012)

Sec. 1-265. Chief executive officer.

The commercial landfill division's board of directors, by vote of an absolute majority of all members, shall appoint and retain a chief executive officer to act as the high-ranking full-time employee of the commercial landfill division. The chief executive officer is the chief administrative officer of the commercial landfill division, subject to the authority of the board of directors, and shall perform such duties as are designated in a position description approved by the board of directors, as well as such further duties as are assigned to him or her by the board of directors. The chief executive officer shall consult monthly with the commercial landfill division's adminis-

trative and fiscal staff to prepare monthly reports on the division's income, expenses and operations. The chief executive officer shall also oversee the preparation of the commercial landfill division's budgets. The chief executive officer shall supervise the commercial landfill division's efforts in connection with all audits and ensure that all financial reports and records are timely submitted to the agency requesting such reports and records or to whom such reports and records are due. The chief executive officer shall attend meetings of the board of directors and, subject to the conditions below, may serve as a voting member of the board. While in service for the commercial landfill division, the chief executive officer shall be ineligible to sit on the board of directors for any other Community division, enterprise, affiliate or entity.

(Code 2012, § 1-93; Ord. No. SRO-339-08, § IV, 9-24-2008; Ord. No. SRO-402-2012, § 1-93, 5-30-2012)

Sec. 1-266. Board of directors.

(a) The affairs of the commercial landfill division shall be governed by a board of directors.

(b) The board of directors shall be comprised of nine voting members.

(1) The qualifications of members shall be as follows:

- a. At least one member shall be the president or vice president of the Community. No more than two members of the Community Council may serve on the board at any given time.
- b. One member shall be a member of the Community Council other than the president/vice president representative designated in subsection (b)(1)a of this section.
- c. At least three members shall be enrolled members of the Community who are not members of the council or employees of the commercial landfill division.
- d. At least two members shall be persons who have extensive professional or management experience in

the construction or waste management industry, experience in banking and finance and/or experience in structural, environmental, or civil engineering and who are not members of the Community Council or employees of the commercial landfill division. The council shall give preference to qualified Community members in making these appointments.

- e. At least one member shall be from the Salt River District, and at least one member shall be from the Lehi District, and one member shall be at large with preference for a resident of the Lehi District where the commercial landfill division facility is physically located. These requirements may be fulfilled only through the representatives designated in subsection (b)(1)c and d of this section.
 - f. The chief executive officer.
- (2) Subject to the requirements of existing Community or Community Council policy regarding appointment of board members, the commercial landfill division's board members, other than the council representatives designated in subsections (b)(1)a and b of this section and the chief executive officer, shall be selected through an application process prescribed in the commercial landfill division's bylaws. Based on such process, the active board of directors shall recommend board candidates to the council. The Community Council shall then appoint board members in accordance with the requirements of this division within this Community Code of Ordinances and existing Community or Community Council policy regarding appointment of board members.
 - (3) Other than the council representatives and the chief executive officer, the terms of these The terms of these board members shall be for a period of three years; provided that the Community Council, however, may provide for shorter terms of certain appointees for the purpose of staggering the board members' terms and other purposes the Community Council deems fit; and provided further that the council reserves the right to remove and replace board members at any time in its sole discretion. The council representatives who are members of the board and the chief executive officer shall serve as members of the board for the time that each such member occupies the office which qualifies such member to serve as a board member.
 - (4) Any board member may resign at any time by giving written notice to the chairperson of the board and the Community Council. Resignations shall become effective at the time specified in writing therein; the acceptance of such resignation shall not be necessary to make it effective. Any time there is a resignation or vacancy, the board shall notify the Community Council. Any vacancy on the board because of death, resignation, removal, or other cause shall be filled for the unexpired portion of that term in accordance with subsection (b)(3) of this section.
 - (5) In the event a board member becomes temporarily incapacitated or otherwise unable to perform his or her duties as defined herein, the remainder of the board, by a simple majority vote, may appoint an interim board member to serve as a replacement, subject to the approval of the Community Council. An interim board member may serve no more than six months, at which point the temporarily replaced board member must reassume his or her position, or the position shall be declared vacant and filled in accordance with subsection (4) of this section.
 - (6) Removal for cause. A board member may be removed involuntarily from the board prior to the expiration of his or her term in accordance with the following procedures:
 - a. A request for removal of a board member may be initiated by filing with the chairperson of the board a

written notice specifying the cause for removal signed by not less than three members of the Community Council.

- b. The cause for removal shall be limited to the following during the terms of membership:
 - 1. Conviction or judgment of liability in any federal, state, or tribal court of a felony or of any of the following offenses, as defined in this Community Code of Ordinances:
 - (i) Violence of assault on a Community law enforcement officer or judge; obstructing criminal investigation or prosecution;
 - (ii) Destroying evidence;
 - (iii) Perjury;
 - (iv) Bribery;
 - (v) Cheats and frauds;
 - (vi) Extortion;
 - (vii) Forgery;
 - (viii) Embezzlement;
 - (ix) Disposing of property of an estate;
 - (x) Theft; or
 - (xi) Misbranding;
 - 2. Gross neglect of duty;
 - 3. Malfeasance in office or conduct which amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the commercial landfill division; or
 - 4. Any other conduct, act or omission that could reasonably be characterized as posing a significant risk to the health, safety, welfare, reputation, integrity and/or prosperity of the board of directors, the commercial landfill division and/or the Community.

- c. Not less than 15 nor more than 30 days following receipt of the written request for removal, the Community Council shall conduct a hearing and vote on the removal or retention of the board member. Before any vote is taken, the board member shall be given a full opportunity, either in person or through a representative of his or her choice, to answer or otherwise respond to any and all charges against them.
 - d. To remove a board member from the board for cause, the affirmative vote of at least two-thirds of the members of the Community Council present at the meeting shall be required.
- (7) Regular meetings of the board of directors shall be held at least once every three months for the purpose of reviewing the commercial landfill division's recent operations, making plans for ensuing operations, and the transaction of such other business as may come before these meetings. The annual meeting of the board of directors shall be held in the month of November. At the annual meeting, the board of directors shall review the preceding year's operations and transact such other business as may come before the meeting. The chairperson of the board of directors and the chief executive officer shall present reports of the year's activities to commercial landfill division representatives and other attendees at the annual meeting. The regular meetings shall be held at the time and place specified by the chairperson of the board. Recorded minutes must be kept for all annual and regular meetings.
 - (8) Special meetings of the board of directors may be called by the chairperson of the board or jointly by any three members of the board of directors. Meetings shall be held at the time and place specified by the person or persons calling such meeting. Written minutes must be kept for all special meetings.

- (9) Five board members present shall constitute a quorum for the transaction of business at any meeting of the board of directors.
- (10) The act of a majority of the board members present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required elsewhere in this article. Each member of the board of directors, including the board member presiding at the meeting of the board of directors, shall be entitled to one vote.
- (11) The board of directors shall adopt:
- a. Bylaws and other policies for the governance of the commercial landfill division;
 - b. Personnel policies that will include procedures for the resolution of grievances of nonprobationary employees, which policies must be approved by the Community Council; and
 - c. An ethics policy for board members that includes a conflict of interest statement in a form approved by the office of the general counsel and the Community Council to be reviewed and signed by all board members prior to a continuing member voting at the second board meeting after the effective date of the ordinance from which this division within this Community Code of Ordinances is derived and a new member attending any board meeting.
- (12) The fees or stipend for the board of directors under this division within this Community Code of Ordinances shall be by the board of directors, but shall at all times be subject to any effective Community and/or Community Council policies with respect to board fees and stipends, including without limitation the Community human resources policies regarding work hours and attendance of board meetings during work hours. The board may request a variance from the council at any time but in no event more often than once per year.
- (13) No board member, officer or employee may have any direct or indirect financial interest that conflicts or appears to conflict substantially with the responsibilities and duties as board members, officers and employees. No board member, officer or employee of the commercial landfill division shall engage in financial transactions as a result of, or otherwise make use of for private gain, information obtained through his or her status as a board member, officer or employee of the commercial landfill division. In addition, no board member, officer or employee of the commercial landfill division shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value, from any person, corporation, group or entity that has interests in or relationship with, or is seeking to obtain contractual or other business of financial relationship with the commercial landfill division, or that conducts or seeks to conduct operations or activities that are regulated by the commercial landfill division, or that has interests that may be affected by the board member's, officer's or employee's performance or nonperformance of his or her official duties for the commercial landfill division. Board members, officers and employees may, however, accept within the bounds of good taste, social amenities and tokens of negligible monetary value as are consistent with generally prevailing customs. Board members, officers and employees may not use any property of the commercial landfill division for purposes other than officially approved activities.
- (Code 2012, § 1-94; Ord. No. SRO-339-08, § V, 9-24-2008; Ord. No. SRO-402-2012, § 1-94, 5-30-2012)
- Sec. 1-267. The officers.**
- (a) The officers of the commercial landfill division shall include a chairperson, a president, a secretary, a treasurer and additional officers as

determined by the board. Unless otherwise indicated in this section, the board of directors shall elect each officer from its voting members and ex officio members. Other officers and assistant officers as may be deemed necessary may be elected by an absolute majority of all members of the board of directors, and their duties may be defined in the commercial landfill division's bylaws. Unless approved by a unanimous vote of the board of directors and confirmed by the Community Council, or unless temporarily holding an office on an emergency basis, no person may simultaneously hold more than one office.

- (1) The board may elect such other officers of the commercial landfill division as it may deem appropriate in the interests of the efficient management of the commercial landfill division's enterprise.
- (2) All officers elected by the board shall hold office for a period of one year, or until their successors are elected, unless removed from office by the board as provided in the bylaws or by the Community Council.

(b) In the event an officer becomes temporarily incapacitated or otherwise unable to perform his or her duties as defined herein, the remainder of the board, by a simple majority vote, may appoint an interim officer to serve as a replacement. An interim officer may serve no more than three months, at which point the temporarily replaced officer must reassume his or her position, or the board must elect a permanent replacement officer in accordance with subsection (a) of this section.

(c) Chairperson of the board. If present, the chairperson of the board shall preside at the meetings of the board of directors. Together with the chief executive officer and Community Council representatives, the chairperson shall act as the commercial landfill division's primary liaison to the Community and to the Community Council. As such, the chief executive officer and chairperson shall be responsible for presenting reports and requests to the Community Council as necessary. Subject to the board of directors' control, the chief executive officer shall supervise the business and affairs of the commercial landfill division, and together with the commercial landfill division's administrative and fiscal staff, all assets of

the commercial landfill division. The chairperson or chief executive officer, or an authorized designee thereof, shall sign any contract, purchase order, check or other instrument which the board of directors has authorized to be executed, except in cases where the signing and execution thereof shall be especially delegated by the board of directors or by this division to some other officer or agent of the commercial landfill division, or shall be required by law to be otherwise signed and executed. The chairperson of the board shall perform such other duties as from time to time may be prescribed by the board of directors and/or set forth in the commercial landfill division's bylaws.

(d) Vice-chairperson. In the absence of the chairperson of the board, or in the event of the chairperson's death, inability or incapacity to act, the vice-chairperson shall perform the duties of the chairperson of the board and, when so acting, shall have all the powers and be subject to all restrictions upon the chairperson of the board. The vice-chairperson shall perform such other duties as from time to time may be prescribed by the board of directors and/or set forth in the commercial landfill division's bylaws.

(e) Treasurer. Among officers that may be appointed upon determination of the board of directors is a treasurer, who shall perform such other duties as from time to time may be prescribed by the board of directors and/or set forth in the commercial landfill division's bylaws. In lieu of electing a treasurer from the board's membership, the board may appoint the Community treasurer, or his or her authorized designee, as the commercial landfill division's treasurer, subject to Community Council action as defined in subsection (a) of this section. In any event, if he or she is not otherwise an active voting board member, the Community treasurer or the controller of the commercial landfill division, or an authorized designee thereof, shall attend board meetings as an ex officio (nonvoting) member of the board. (Code 2012, § 1-95; Ord. No. SRO-339-08, § VI, 9-24-2008; Ord. No. SRO-402-2012, § 1-95, 5-30-2012)

Sec. 1-268. Indian preference in employment.

The commercial landfill division shall maintain effective policies for giving preference in hiring,

promotion, and training to qualified Community members in all levels of employment, including specifically in the employment of officers and other management employees. Effective preference policies shall be developed and adopted by the commercial landfill division consistent with Community law and policies. The commercial landfill division shall, in furtherance of the policies so developed, advise Community employment officials of job openings as soon as possible and give full consideration to any Community member referred to the commercial landfill division for any job opening. The Indian preference policies shall provide for and require training programs to prepare Community members for hiring and promotion in all levels of employment.

(Code 2012, § 1-96; Ord. No. SRO-339-08, § VII, 9-24-2008; Ord. No. SRO-402-2012, § 1-96, 5-30-2012)

Sec. 1-269. Reports to the Community Council.

(a) The commercial landfill division shall provide written reports to the Community Council on its operations and significant activities and events in each calendar quarter within 45 days after the close of the quarter. The reports shall include at least the following information as well as any other information the council may request:

- (1) Income statements showing revenues and disbursements for the quarter and for the fiscal year to date with comparisons to the operating budget and capital expenditures with comparisons to the capital expenditures budget.
- (2) A description of all limited waivers of sovereign immunity given in connection with a routine business transaction pursuant to section 1-263, or in connection with any transaction entered into by the commercial landfill division pursuant to subsection (a)(1) of this section.
- (3) A list and brief description of any claims asserted against the commercial landfill division by way of lawsuit. It shall also advise of any threats of lawsuit.
- (4) An assessment of the impact of the commercial landfill division's activities on the

Community's sovereign political status and on the Community's cultural preservation objectives.

- (5) The report shall state the number of persons employed by the commercial landfill division, the number of employees who are members of the Community, and the number of employees who are enrolled members of other Indian tribes and the number of Community member employees who left employment during that period.

(b) Prior to the end of each fiscal year the commercial landfill division shall present to the Community Council and obtain approval of its budget for the next fiscal year, first from the commercial landfill division's board of directors and then from the Community Council. This presentation shall be made both orally and in writing. Any amendment to the budget following its original adoption shall be reported to the council as part of the report for the quarter in which the amendment was approved by the commercial landfill division's board of directors.

(c) The commercial landfill division's report for the fourth quarter of each fiscal year shall be made by written and oral presentation to the council and shall include, in addition to the information requested in subsection (a) of this section, financial statements for the concluded fiscal year.

(d) From time to time the Community treasurer's office may provide formats for the quarterly presentations and may request that additional information be included.

(e) The Community Council may request additional or supplemental reports at any time.
(Code 2012, § 1-97; Ord. No. SRO-339-08, § VIII, 9-24-2008; Ord. No. SRO-402-2012, § 1-97, 5-30-2012)

Sec. 1-270. Miscellaneous.

(a) The Community's general counsel or his or her designee shall serve as legal counsel to the commercial landfill division. The general counsel or his or her designee shall be present during all board meetings. Outside legal counsel may be retained by the commercial landfill division with

approval by the Community Council and the Community's general counsel and in accordance with an approved budget.

(b) The board of directors is responsible for determining management's compensation based upon the goals of the commercial landfill division.

(c) The board of directors shall appoint an audit committee comprised of at least three members of the board, as well as one other person with a financial or auditing background who will provide advice and counsel to the audit committee. The audit committee shall meet with the external auditors of the commercial landfill division prior to the beginning of the audit to advise them of any concerns or areas of emphasis for the audit, as well as after the audit is completed to receive and review the audit report.

(d) The board members and officers of the commercial landfill division shall not be liable for the debts of the commercial landfill division, the private property of the board members and officers of this commercial landfill division shall be forever exempt from its debts and the Community indemnifies and shall hold harmless the commercial landfill division employees, the board members and officers from liability or other claim arising out of their duties of or function as commercial landfill division employees, board members or officers. This indemnity and protection from personal liability shall not extend to those actions or activities of the board members or officers, and commercial landfill division employees, who create liability for themselves or the commercial landfill division by exceeding the scope of their official duties, responsibilities or obligations.
(Code 2012, § 1-98; Ord. No. SRO-339-08, § IX, 9-24-2008; Ord. No. SRO-402-2012, § 1-98, 5-30-2012)

Sec. 1-271. Repeal of prior ordinances.

SRO-322-08, enacted October 3, 2007, is hereby repealed in its entirety.
(Code 2012, § 1-99; Ord. No. SRO-339-08, § X, 9-24-2008; Ord. No. SRO-402-2012, § 1-99, 5-30-2012)

Sec. 1-272. Effective date.

This will take effect when enacted, except that any change in the composition of the board of directors that may be required by section 1-266 shall become effective at such time as the Community Council may direct.
(Code 2012, § 1-100; Ord. No. SRO-339-08, § XI, 9-24-2008; Ord. No. SRO-402-2012, § 1-100, 5-30-2012)

Secs. 1-273—1-292. Reserved.

DIVISION 11. SALT RIVER COMMUNITY GAMING ENTERPRISES

Sec. 1-293. Established.

(a) There is established a division of the Community to be known as Salt River Community Gaming Enterprises.

(b) The gaming enterprises division shall maintain its principal place of business and office in Maricopa County, Arizona.

(c) The gaming enterprises division shall be in the business of developing and operating gaming casinos, restaurants, hotels and convention centers and such other related business as the Community Council may from time to time determine the gaming enterprises division shall develop and operate.

(d) The purposes of the gaming enterprises division are to promote the economic self-sufficiency of the Community so as to enable the Community to survive and prosper as an independent Indian Community by earning profits to sustain and enhance the Community's necessary governmental programs.

(e) In furtherance, and not in limitation, of the general powers conferred by this division of the Community and of the purposes hereinbefore stated and in conformity with the policies of the Community Council, the gaming enterprises division shall also have the following powers which

shall be exercised by the board of the gaming enterprises division or delegated by it to gaming enterprises division's officers or employees:

- (1) To enter into, make and perform contracts of every kind and description with any firms, person association or corporations, tribal government, municipality, country, territory, state government or dependency thereof, subject only to the following restrictions:
 - a. The gaming enterprises division shall not enter into any lease of real property without the approval of the Community Council.
 - b. The gaming enterprises division shall not enter into any contract which requires expenditures from the gaming enterprises division in excess of the gaming enterprises division's board-approved budget for the subject matter of any such contract without an amendment to the gaming enterprises division's budget.
- (2) To borrow money for any of the purposes of the gaming enterprises division, and in connection therewith to make, draw execute, accept, endorse, discount, pledge, issue, sell or otherwise dispose of promissory notes, drafts, bills of exchange, warrants, bonds, debentures, and other evidences of indebtedness, negotiable or nonnegotiable, transferable or not transferable, and grant collateral or other security to secure the indebtedness, provided that the collateral or security is the thing or things purchased with the funds borrowed in the same transaction (purchase money collateral) and with the specific approval of the Community Council, the board may grant collateral or other security other than purchase money collateral or security as described herein and with such approval issue jointly with any other person, associates or firms any evidences of indebtedness as described in this subsection (e). Any borrowing by the

gaming enterprises division from the Community shall be treated as like borrowing from any commercial lender.

- (3) To adopt an annual budget of income and expenses approved by the Community Council.
- (4) To conduct banking relationships necessary to the operation of the gaming enterprises division, to establish a uniform system of accounting, to provide for the annual auditing by a certified public accountant, of the books of the gaming enterprises division and to report the financial condition of the gaming enterprises division to the Community Council quarterly. In addition, with respect to the preparation of financial data, defined below, the gaming enterprises division's chief financial officer (CFO) shall report to and be subject to the direction of:
 - a. The gaming enterprises division's chief executive officer; and
 - b. The Community treasurer;

provided, however, that if directions issued to the CFO by the chief executive officer and Community treasurer shall be in conflict or inconsistent, then the direction from the Community treasurer shall control. Upon request of the Community treasurer, the gaming enterprises division's CFO shall timely prepare specified financial reports, projections, or provide data in a form and substance acceptable to the Community treasurer (financial data). Copies of all financial data and other information provided by the CFO to the Community treasurer shall concurrently be provided by the CFO to the chief executive officer of the gaming enterprises division. The Community treasurer may attend meetings of the gaming enterprises division's board or officers, and gaming enterprises division officers shall meet with the treasurer upon request so as to facilitate the treasurer in performing fiduciary and other duties assigned by the Community Council. In addition, the CFO and chief executive officer of the

gaming enterprises division shall immediately inform the treasurer regarding operational matters which are likely to significantly affect the gaming enterprises division, its annual budget, its strategic planning, financial results, internal controls, operating efficiency, or financial planning. Except as provided above, however, the Community treasurer shall have no management authority over the gaming enterprises division, its officers or employees.

- (5) To periodically transfer to the Community funds excess to the operating needs of the gaming enterprises division. The gaming enterprises division shall make such transfers at the direction of the board or at the direction of the Community Council.
- (6) To enter into agreements with departments of the Community to provide assistance in accounting, personnel selection, purchasing or other services as the board may from time to time determine and to enter into contracts for goods and services with any gaming enterprises division of the Community.
- (7) To hire, promote and discharge such personnel as may be required to conduct the affairs of the gaming enterprises division, provided that the terms and conditions of employment, including wages and benefits (including any pension plans or other deferred compensation arrangements) paid and personnel policies used and disciplinary procedures utilized shall be subject to the approval of the Community Council.
- (8) To conduct the business of the gaming enterprises division in accordance with the laws of the Community and in particular regard to the gaming activities of the gaming enterprises division in accordance with the Community's gaming laws and the compact entered into between the Community and the State of Arizona.
- (9) To exercise such powers as are necessary to affect the purposes for which the gam-

ing enterprises division is organized and consistent with this gaming enterprises division.

(f) The board shall create separate management arrangements, budgets and books of account for each of the businesses conducted by the gaming enterprises division.

(g) The gaming enterprises division shall engage in businesses as described in subsection (c) of this section at the specific direction of the Community Council. The gaming enterprises division shall carry out the plan of development for the development and operation of businesses as shall be directed by the Community Council within the schedule determined by the council.

(h) The general business of the gaming enterprises division shall be conducted by a board which shall consist of eight voting members who shall be appointed by the Community Council. The qualifications of the members are as follows:

- (1) The chief executive officer of the gaming enterprises division shall be on the board but shall be a nonvoting member. The chief executive officer shall serve as president of the gaming enterprises division.
- (2) Six members shall be members of the Community, and one of them shall be a member of the Community Council.
- (3) Two members of the board shall have extensive professional or management experience in the gaming, restaurant, hotel, convention center, resort operations or banking and finance business. The council will accord preference to Native American in the appointments under this subsection.

Members of the Community Council who are members of the board and the president of the gaming enterprises division shall serve as members of the board for the time that each such member occupies the office which qualifies such member to serve as a board member. Any board member who is qualified under subsection (h)(2) or (3) of this section shall serve at the pleasure of the Community Council and if not earlier removed by the Community Council shall serve for a term of two years or thereafter until their

successors are appointed by the Community Council or if members of the Community Council, until their council term has expired and their successors elected by the Community Council.

(i) The officers of the gaming enterprises division shall consist of a chairperson of the board, president, secretary and treasurer, and such additional officers as the board may deem necessary. The president shall be the person employed by the Community as the chief executive officer of the gaming enterprises division. All other offices shall be subject to annual election by the board at its annual meeting. The officers elected by the board shall hold office for a period of one year, or until their successors are elected and shall have qualified, unless removed from office by the board as provided in the bylaws. Except for the chairperson and the president, officers need not be members of the board. The president of the Community may from time to time assign employees of the Community to perform functions for the gaming enterprises division and attend board meetings of the gaming enterprises division.

(j) The board shall have the power to adopt, amend, rescind and repeal bylaws and to elect and appoint such agents and committees as it may deem necessary, with such powers as it may confer.

(k) The highest amount of indebtedness or liability, direct or contingent to which the gaming enterprises division may at any time subject itself shall be determined, from time to time, by the Community Council.

(l) The board members and officers of the gaming enterprises division shall not be liable for the debts of the gaming enterprises division, the private property of the board members and officers of this gaming enterprises division shall be forever exempt from its debts and the Community indemnifies and shall hold harmless gaming enterprises division employees, the board members and officers from liability or other claim arising out of their duties of or function as gaming enterprises division employees, board members or officers.

(m) Nothing in this division within this Community Code of Ordinances shall exempt the gaming enterprises division from full compliance with ordinances of the Community and this division within this Community Code of Ordinances does not repeal or amend any other ordinance or resolution of the Community.

(Code 2012, § 1-105; Ord. No. SRO-363-2010, 4-7-2010; Ord. No. SRO-402-2012, § 1-105, 5-30-2012)

Sec. 1-294. Capitalization; financial responsibility.

(a) The gaming enterprises division shall be capitalized as shall be determined by the Community Council. The gaming enterprises division shall be responsible for the payment of all indebtedness of the gaming enterprises division and the Community hereby expressly waives any and all defenses based on sovereign immunity from suit with respect to any action:

- (1) Based on contract for money;
- (2) Based on the replevin of personal property; and
- (3) For damages arising out of tort when the damage claim is fully covered by insurance owned by the gaming enterprises division and provided in each case that such action is brought in the Community court and no other court of the United States or of any state.

(b) The waiver and consent is limited to any assets of the Community which are obtained by the gaming enterprises division through the operation of the business of the gaming enterprises division or held in the accounts of the gaming enterprises division in the name of the gaming enterprises division; provided, however, that such waiver and consent shall not extend to assets transferred from the accounts or business of the gaming enterprises division to other accounts of the Community, and to amounts payable to the Community by the gaming enterprises division. All obligations incurred in connection with the gaming enterprises division shall be special obligations of the gaming enterprises division payable solely from the assets described in this paragraph. The gaming enterprises division shall accept

services of process upon the gaming enterprises division by delivery to any officer or managing agent of the gaming enterprises division. (Code 2012, § 1-105; Ord. No. SRO-363-2010, 4-7-2010; Ord. No. SRO-402-2012, § 1-106, 5-30-2012)

Secs. 1-295—1-321. Reserved.

DIVISION 12. SALT RIVER FIELDS AT TALKING STICK

Sec. 1-322. Enterprise established.

(a) There is established a subordinate economic enterprise of the Community to be known as Salt River Fields at Talking Stick ("Salt River Fields").

(b) Salt River Fields shall maintain its principal place of business and office on lands of the Community.

(c) Salt River Fields shall be in the business of developing and operating the Community's spring training and Community recreational facility ("facility"), and such other related business as Salt River Fields or the Community Council may from time to time determine.

(d) In conducting its business, Salt River Fields shall act for and on behalf of the Community. Salt River Fields shall be and at all times shall remain exclusively owned and controlled by the Community, acting through the Community Council. It shall function as an instrumentality of the Community; provided, however, under no circumstances shall the Community be responsible for any debt, liability or obligation of Salt River Fields. Instead, the debts, liabilities and obligations of Salt River Fields shall be paid and discharged exclusively by Salt River Fields and from assets or accounts held in the name of Salt River Fields, as provided in this article. The purposes for organizing Salt River Fields include, but are not limited to, enabling the Community to further develop and enhance its self-sufficiency, promote Community economic development, generate employment for Community members, promote Pima and Maricopa cultural awareness by hosting Community and Native American events at the facil-

ity, and generate government tax and other revenues to support operation of Community government and provision of governmental services and programs to Community members.

(e) In furtherance of the general powers conferred by this division within this Community Code of Ordinances, and in conformity with the established policies of the Community Council, Salt River Fields shall also have the following powers which, unless such powers are revoked by the Community Council, shall be exercised by the board of Salt River Fields or delegated by it to Salt River Fields' officers or employees:

- (1) To enter into, make and perform contracts with any person, entity, tribal government, county, state or local government or agency thereof, subject only to the following restrictions:
 - a. Salt River Fields shall not enter into any lease of real property without the approval of the Community Council.
 - b. Salt River Fields shall not enter into any contract which requires expenditures from the accounts of Salt River Fields in excess of the board-approved budget for the subject matter of any such contract, without an amendment to its budget and council approval of such amendment.
- (2) To borrow money for any of the purposes for which Salt River Fields is organized, and in connection therewith to make, draw execute, accept, endorse, discount, pledge, issue, sell or otherwise dispose of promissory notes, drafts, bills of exchange, warrants, bonds, debentures, and other evidences of indebtedness, negotiable or nonnegotiable, transferable or not transferable, and grant collateral or other security to secure the indebtedness, provided that the collateral or security are the thing or things purchased with the funds borrowed in the same transaction (purchase money collateral) and, with the express approval of the Community Council, the board may grant collateral or other security other than purchase money

collateral or security as described herein and with such approval issue jointly with any other person or entity any evidences of indebtedness as above described. Any borrowing by Salt River Fields from the Community shall be documented and treated as borrowing from any commercial lender.

- (3) To prepare an annual budget of income, expenses and capital expenditures in a form approved by the Community's treasurer and to adopt an annual budget that is approved by the Community Council.
- (4) To conduct banking relationships necessary to the operation of Salt River Fields, to establish a uniform system of accounting, to provide for the annual auditing by a certified public accountant, of its books and to report its financial condition to the Community Council at least quarterly. In addition, with respect to the preparation of financial data, as such term is defined below, the controller or chief financial officer (CFO) of Salt River Fields shall report to and be subject to the direction of:
 - a. The enterprise's general manager; and
 - b. The Community's treasurer;

provided, however, that if directions issued to the CFO by the Salt River Fields' general manager and Community treasurer shall be in conflict or inconsistent, then the direction from the Community treasurer shall control. Upon request of the Community treasurer, the CFO of Salt River Fields shall timely prepare specified financial reports, projections, or provide data in a form and substance acceptable to the Community treasurer (financial data). Copies of all financial data and other information provided by the CFO to the Community treasurer may concurrently be provided by the CFO to the general manager of Salt River Fields. The Community treasurer and the Community's general counsel may attend all meetings of the board and officers of Salt River Fields, and Salt River Fields' em-

ployees and officers shall meet with the treasurer upon request so as to facilitate the treasurer performing fiduciary and other duties assigned by the Community Council. In addition, the CFO and the general manager of Salt River Fields shall keep the treasurer informed on a timely basis regarding operational matters which may significantly affect the enterprise, its annual budget, strategic planning, financial results, internal controls, operating efficiency, or financial planning. Except as provided above, however, the Community treasurer shall have no management authority over Salt River Fields, its officers or employees. All books and records of Salt River Fields shall be deemed owned by Salt River Fields and the Community and shall at all times be open to inspection by the Community Council and its authorized representatives.

- (5) Upon the direction of either the Community treasurer or the Community Council, to periodically transfer funds to the Community deemed in excess of Salt River Fields' operating needs and financial commitments. Salt River Fields may also make such transfers at the direction of the board.
- (6) To enter into agreements with departments of the Community to provide assistance in accounting, personnel selection, purchasing or other services as the board may from time to time determine and to enter into contracts for goods and services with any other enterprise or division of the Community.
- (7) To hire, promote and discharge such personnel as may be required to conduct its affairs, provided that the terms and conditions of employment, including wages and benefits (including any pension plans or other deferred compensation arrangements) paid and shall be subject to the approval of the Community Council.
- (8) To conduct its business in accordance with the laws of the Community.
- (9) To exercise such powers as are necessary to implement the purposes for which Salt

River Fields is organized, consistent with this division within this Community Code of Ordinances.

- (10) To own and hold real or personal property in the name of Salt River Fields or the Community.
- (11) To retain attorneys under a written agreement, subject to the prior express approval of the Community's general counsel, provided that no attorney-client, work-product or other privilege shall prevent communication of any matter or distribution of any document between such attorneys and the Community's general counsel.

(f) The general business of Salt River Fields shall be conducted by a board which shall consist of seven voting members who shall be appointed by, and who may be removed with or without cause by the Community Council. The qualifications of the members are as follows:

- (1) Four members shall be members of the Community, and at least one of them shall be a member of the Community Council.
- (2) Two members of the board shall have extensive professional or management experience in one of the following areas:
 - a. Cactus League baseball operations;
 - b. The hospitality industry;
 - c. Facility management;
 - d. Marketing and advertising; or
 - e. Entertainment.
- (3) At least one member shall have extensive experience in financial management.

Members of the Community Council who are members of the board shall serve as members of the board until removed by the council or during the time that each such member occupies the office which qualifies such member to serve as a board member. All board members shall serve at the pleasure of the Community Council and, if not earlier removed by the Community Council, shall serve for staggered terms of three years or thereafter until their successors are appointed by the Community Council or if members of the Commu-

nity Council, until their council term has expired and their successors elected by the Community Council.

(g) The president of the Community may from time to time assign employees of the Community to perform functions for the enterprise and attend board meetings.

(h) The board shall have the power to adopt, amend, rescind and repeal bylaws consistent with this division within this Community Code of Ordinances.

(i) The highest amount of indebtedness or liability, direct or contingent, to which Salt River Fields may at any time subject itself may be determined, from time to time, by the Community Council.

(j) The board members and officers of Salt River Fields shall not be liable for the debts of Salt River Fields, and the private property of board members and officers of Salt River Fields shall be forever exempt from its debts. Salt River Fields shall indemnify and hold harmless Salt River Fields' employees and board members (indemnified parties) from liability or other claim arising as a result of the indemnified parties acting in their official capacity and within the course and scope of their authority.

(k) Nothing in this division within this Community Code of Ordinances shall exempt Salt River Fields from full compliance with ordinances of the Community and this division within this Community Code of Ordinances does not repeal or amend any other ordinance or resolution of the Community.

(Code 2012, § 110; SRO-370-2011, 10-6-2010; Ord. No. SRO-381-2011, 7-13-2010; Ord. No. SRO-402-2012, § 1-110, 5-30-2012)

Sec. 1-323. Capitalization; financial responsibility.

(a) Salt River Fields shall be capitalized as shall be determined by the Community Council after consultation with the Community treasurer.

(b) Salt River Fields is, and shall function as, an instrumentality of and a subordinate economic organization of the Community. Salt River Fields

is entitled to all of the privileges and immunities of the Community, including but not limited to immunities from suit in federal, state and tribal courts and from federal, state, and local taxation or regulation, except as may be otherwise provided by Community law. Salt River Fields' immunity from suit may only be waived as follows:

- (1) The Community Council may at any time expressly waive Salt River Fields' immunity from suit by written waiver, subject to the terms, conditions and limitations set forth in the written waiver.
- (2) The board of Salt River Fields may grant a written waiver of Salt River Fields' immunity from suit, subject to the following terms, conditions and limitations:
 - a. The waiver must be in writing and must identify the party or parties for whose benefit the waiver is granted, the transactions and the claims or classes of claims for which the waiver is granted, the property of Salt River Fields which may be subject to execution to satisfy any award or judgment which may be entered in the claim, and shall state whether Salt River Fields consents to suit in court or to arbitration, mediation or other alternative dispute resolution mechanism, and if consenting to suit in court, identify the court or courts in which suit against Salt River Fields may be brought, or the requirements and procedures for initiating mediation or arbitration, if applicable.
 - b. Any waiver shall be limited to claims arising from the acts or omissions of Salt River Fields, its general manager, employees or agents, and shall be limited to and construed only to affect property held in the name of Salt River Fields and the income and accounts of Salt River Fields.
 - c. Nothing in this division within this Community Code of Ordinances, and no waiver of immunity of Salt River Fields granted by the Community Council or the board, shall be con-

strued as a waiver of the sovereign immunity of the Community or any other Community-owned enterprise or division, and no such waiver of immunity of Salt River Fields shall create any liability on the part of the Community or any other Community-owned enterprise or division for the debts and obligations of Salt River Fields, or shall be construed as a consent to the encumbrance or attachment of any property of the Community or any other Community-owned enterprise or division based on any action, adjudication, or other determination of liability of any nature incurred by Salt River Fields.

- d. The immunity of Salt River Fields shall not extend to actions brought by the Community.
- e. No waiver of immunity of Salt River Fields shall extend to or in any manner affect the assets transferred from the accounts or business of Salt River Fields to other accounts of the Community, nor to amounts payable to the Community by Salt River Fields. All obligations and indebtedness incurred by Salt River Fields shall be special obligations solely of Salt River Fields and payable solely from the assets described in this section.

(Code 2012, § 111; SRO 370-2011, 10-6-2010; Ord. No. SRO-381-2011, 7-13-2010; Ord. No. SRO-402-2012, § 1-111, 5-30-2012)

Sec. 1-324. Spectator injuries.

(a) *Findings.* The council of the Community recognizes that persons who attend baseball activities at Salt River Fields at Talking Stick may incur injuries as a result of the risks involved in being a spectator at such baseball activities. However, the council also finds that attendance at such baseball activities provides a wholesome and healthy family activity which should be encouraged. The council further finds that the Community will derive economic benefit and tax revenues from spectators attending baseball activities. It is, therefore, the intent of the Community Council

to encourage attendance at baseball activities conducted at Salt River Fields at Talking Stick. Limiting the civil liability of those who own baseball teams and facilities at Salt River Fields at Talking Stick will help contain costs, keeping ticket prices more affordable.

(b) *Spectators to assume the inherent risks.* Spectators of baseball activities are presumed to have knowledge of and to assume the inherent risks of observing baseball activities. These assumed risks include, but are not limited to:

- (1) Injuries which result from being struck by:
 - a. A baseball;
 - b. A baseball bat or fragments thereof;
 - c. Equipment or pieces thereof; or
 - d. Thrown, dropped or launched items or projectiles; and similar hazards; and
- (2) Other hazards or distractions, including spectator conduct, and incidents or accidents associated with groups or crowds of people.

(c) *Assumption of risk except as provided in subsection (d) of this section.* Except as provided in subsection (d) of this section, the assumption of risk set forth in subsection (b) of this section shall be a complete bar to suit and shall serve as a complete defense to a suit against an owner by a spectator for injuries resulting from the assumed risks. Except as provided in subsection (d) of this section, an owner shall not be liable for an injury to a spectator resulting from the inherent risks of attending a baseball activity, and, except as provided in subsection (d) of this section, no spectator or spectator's representative shall make any claim against, maintain an action against, or recover from an owner for injury, loss or damage to the spectator resulting from any of the inherent risks of attending a baseball activity.

(d) *Subsection (c) of this section does not limit liability.* Nothing in subsection (c) of this section shall prevent or limit the liability of an owner who intentionally injures a spectator.

(e) *This division does not preclude spectator from suing.* Nothing in this division within this Community Code of Ordinances shall preclude a spectator from suing another spectator for any injury to person or property resulting from such other spectator's acts or omissions.

(f) *Definitions.* As used in this division within this Community Code of Ordinances:

Baseball activity means any baseball or softball game or activity conducted or occurring at Salt River Fields at Talking Stick, including, without limitation, games played or activities undertaken by professional, amateur, collegiate, high school or other players, whether for exhibition, practice or competition, and which includes any type of warm-ups, practices, and competitions associated with baseball or softball, and all pregame and postgame activities, regardless of the time of day when the game is played or the activity occurs.

Owner.

- (1) The term "owner" means:
 - a. A person, federally recognized Indian tribe, corporation, limited liability company, partnership, Community college district, college, university, political subdivision or other legal entity that is in lawful possession and control of a baseball team; and
 - b. The Community or other entity that is in lawful possession and control of Salt River Fields at Talking Stick.
- (2) The term "owner" includes the owner's affiliates, and the owner's and its affiliates' respective owners, shareholders, partners, directors, officers, members, managers, players, employees and agents.

Spectator means a person who is present at a baseball activity, whether or not the person pays an admission fee or is compensated to observe the activity.

(g) *This division does not waive sovereign immunity.* Nothing in this division within this Community Code of Ordinances is intended or shall be

deemed or construed to waive the sovereign immunity of the Community or any enterprise, division or affiliate of the Community.

(Code 2012, § 112; Ord. No. SRO-374-2011, §§ 1—7, 12-1-2010; Ord. No. SRO-402-2012, § 1-112, 5-30-2012)

Secs. 1-325—1-340. Reserved.

ARTICLE III. COMMITTEES

DIVISION 1. GENERALLY

Secs. 1-341—1-346. Reserved.

DIVISION 2. RETIREMENT/BENEFIT PLAN COORDINATION OF LAW

Sec. 1-347. Definitions.

The following words, terms and phrases, when used in this division within this Community Code of Ordinances, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community means the Salt River Pima-Maricopa Indian Community and its departments, divisions and enterprises.

Community court means the Salt River Pima-Maricopa Indian Court as established pursuant to the Constitution of the Community.
(Code 2012, § 2-151; Ord. No. SRO-388-2012, § 85(I), 11-30-2011; Ord. No. SRO-402-2012, § 1-151, 5-30-2012)

Sec. 1-348. Coordination of federal and tribal law.

(a) Governing law for retirement benefits claims. In order to provide participants and beneficiaries under those Community benefit plans classified as government status plans under section 906 of the Pension Protection Act of 2006 ("PPA"), an established system for the administration of benefit claims and due process, the Community hereby adopts as its law the employee protections afforded under the Employee Retirement Income Security Act ("ERISA"), title I, sections 404(a) and

(c) (Fiduciary Duties) and section 503 (Participant Claims Procedures), subject to the following modifications:

- (1) Community court jurisdiction shall be substituted wherever state or federal court are referenced therein.
- (2) Incorporation of said portions of ERISA into Community law shall not be construed to cede any jurisdiction or enforcement authority to the United States Department of Labor, the Internal Revenue Service or other federal or state authorities, to the extent a government status plan is otherwise exempt from such jurisdiction or enforcement authority.
- (3) Nothing herein shall subject the Community, or their plans, to penalties, sanctions or filing requirements which do not apply to a government status plan.
- (4) Dispute resolution of plan claims, following administrative exhaustion, shall be resolved:
 - a. Through Community Council-approved binding arbitration which, in the event of an ERISA governed plan, shall be conducted in accordance with the Federal Arbitration Act; or
 - b. In the absence of such procedures through the Community courts.
- (5) Incorporation of said portions of ERISA is not to be construed as the incorporation of any federal regulations or other agency guidance under ERISA that were not subject to consultation as required by Executive Order 13175.
 - (b) Until final federal regulations are issued following consultation as required by Executive Order 13175, in determining the government status of any plan of the Community, the following factors shall be used in determining whether an employee is engaged in an essential government function or a commercial activity as those terms are used in the PPA:
 - (1) The historic functions performed by the Community government;

- (2) The Community's role as defined in its Constitution, ordinances, resolutions, judicial decisions, customs and traditions;
- (3) The functions carried on by other governmental employers, including the federal government, states, counties, cities and other local governments;
- (4) The use of revenues generated by activities in question (whether inuring to the benefit of the Community and the provision of public services, or whether inuring to private interests); and
- (5) Whether the entity or division is treated as a nonprofit or for-profit entity for tax or other purposes.

(c) The Community Council shall, in the absence of final federal regulations that are the product of consultation pursuant to Executive Order 13175, have the sole sovereign power and discretion to determine what is an essential government function of the Community and what is a commercial activity.

(d) In the event that a federal agency hereafter publishes guidance or regulations which contradict this division within this Community Code of Ordinances, the Community hereby asserts its right to individual consultation over the conflict prior to enforcement of such federal guidance or regulations, as provided in Executive Order 13175, section 5(f). The Community also asserts its right to seek a waiver of any such conflicting requirements as provided in Executive Order 13175, section 6.

(e) All references to Executive Order 13175 shall also refer to future executive orders to the extent they are consistent with the government-to-government consultation provisions incorporated herein.

(f) Adoption by the Community of policies or procedures modeled after the private sector ERISA rules shall not be construed as a waiver of government status or sovereignty to which the Community or their respective plans may be entitled to at law or in equity.

(g) The Community reserves the right to make further changes to its pension and welfare benefit plans as permitted under the PPA through any applicable transition date(s), as the same may be modified with further guidance from the Department of Treasury, the Internal Revenue Service, the Department of Labor and other federal agencies as may have jurisdiction over specific changes at hand.

(h) This division within this Community Code of Ordinances shall not be construed as a waiver of sovereign immunity which may be waived only by express resolution of the Community Council.

(i) With regard to those plans of the Community that are governed by ERISA because the plans are classified as commercial plans or plans covering employees who do not perform essential government functions, as defined under the PPA, the following rules shall apply:

- (1) Community court exhaustion is not waived.
- (2) The Community court shall be recognized under the ERISA jurisdictional provisions to the fullest extent permitted at law.
- (3) The dispute resolution provisions of subsection (a)(1) and (4) of this section shall apply to the fullest extent permitted under law.
- (4) The Community shall receive relief from current and future regulations under ERISA and the Community Code of Ordinances that are not developed through government-to-government consultation, to the full extent permitted under Executive Order 13175.

(j) Except as otherwise directed in a Community Council resolution or in a plan document approved by the Community Council:

- (1) Each plan level administrator shall be the "named fiduciary" of the benefit plan or plans over which they are primarily responsible for plan administration; and
- (2) The Community shall be the plan sponsor. (Code 2012, § 2-152; Ord. No. SRO-237-08, § I, 12-19-2007; SRO 388-2012, § 85(II), 11-30-2011; Ord. No. SRO-402-2012, § 1-152, 5-30-2012)

Secs. 1-349—1-353. Reserved.

DIVISION 3. SENIOR HOME REPAIR OR REPLACEMENT PROGRAM COMMITTEE

Sec. 1-354. Title.

The Salt River Pima-Maricopa Indian Community Council (Community Council) established the Senior Home Repair or Replacement Program (SHRRP).

(Code 1981, § 15.6-1; Code 2012, § 1-155; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-155, 5-30-2012)

Sec. 1-355. Purpose.

(a) *Generally.* The purpose of the SHRRP is to provide assistance to senior or disabled Community members to improve their housing conditions by providing them the opportunity for a safe and healthy home that facilitates a suitable quality of life.

(b) *Historic needs.* The program is intended to address and reverse historic patterns of inadequate housing within the Community, and to ensure that seniors, elders and people with disabilities continue to live within the reservation as a way to preserve the culture and traditions of Community.

(c) *Need based program.* The SHRRP is a social benefit program established pursuant to the sovereign authority of the Community in order to meet specific needs of the Community. The program is intended to qualify for tax-free assistance to the extent permitted under the IRS general welfare doctrine. As such, all benefits are provided on a needs basis (which may be based on individual and/or Community need); program benefits may not be conditioned on the performance of services; and all program expenditures must serve a social benefit to the Community. Only those benefits administered pursuant to the IRS requirements shall be provided on a tax-free basis.

(Code 1981, § 15.6-2; Code 2012, § 1-156; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-156, 5-30-2012)

Sec. 1-356. Senior home repair or replacement program (SHRRP) committee.

(a) A SHRRP committee shall be appointed for the purpose of administering this program. The SHRRP committee shall consist of three representatives, one from each of the following tribal government departments or divisions:

- (1) Housing;
- (2) Health and human services; and
- (3) Engineering/construction services.

In addition to the committee, there will be two advisory representatives of the senior and disabled population of the Community (one from Lehi and one from Salt River), as designated by the Community Council.

(b) The SHRRP committee shall adopt policies and procedures for the purpose of carrying out this chapter and to ensure compliance with the requirements of those policies and procedures.

(Code 1981, § 15.6-3; Code 2012, § 1-157; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-157, 5-30-2012)

Sec. 1-357. Definitions.

The following words, terms and phrases, when used in this division within this Community Code of Ordinances, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community member means an enrolled member of the Community.

Disability or disabled means Community members with a chronic impairment (physical, mental, emotional, psychological or social) which interferes with meeting their needs for self-sufficiency.

Enrolled member means an individual duly registered on the Community enrollment rolls.

Senior means any individual 55 years of age or older.

SHRRP coordinators means the lead staff persons designated by the SHRRP committee to work with applicants and families involved in the program.

(Code 1981, § 15.6-3.1; Code 2012, § 1-158; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-158, 5-30-2012)

Sec. 1-358. Eligibility and prioritization.

(a) *General criteria.* An individual applying to SHRRP shall:

- (1) Be a Community member;
- (2) Be a senior or disabled;
- (3) Have an existing home within Community borders, that is used as the applicant's primary residence, which home creates a risk to the health, safety or welfare of the applicant; and
- (4) Have a home that creates life safety, health and welfare risks due to building code violations or other risk factors.

(b) *Priority status.* Prioritization for services to individuals will be based upon critical life safety concerns and related needs.

(c) *Needs basis.* All benefits under this program must be administered on a needs basis. Before benefits are paid, a determination must be made that the benefits are necessary to satisfy an individual need of the recipient and/or an overriding need of the Community:

- (1) *Community need determinations.* Repairs that are necessary to keep a home in compliance with Community health and safety building codes are presumed to meet an overriding need of the Community.
- (2) *Individual need determinations.* Individuals who have income below 100 percent of the Maricopa County area median income, as adjusted annually by the United States Department of Housing and Urban Development (HUD), shall be presumed to have a financial need.
- (3) *Facts and circumstances.* Individuals who have income above the median income guidelines may demonstrate financial need

on a facts and circumstances basis, for example, by showing household expenses and financial obligations that evidence a financial need. The committee may also consider Community need determinations based on individual circumstances that do not fit within an existing Community health and safety code; provided that the committee determines that repairs are necessary for the overall health and safety of the Community regardless of individual need.

(4) *Individual certification.* Each applicant shall certify his or her eligibility for program benefits under penalties of perjury. Applicants receiving individual income based benefits and who are above the presumptive income guidelines will be required to provide additional financial information as requested by the committee. All certifications of eligibility shall be updated periodically for continued program eligibility.

(5) *Committee certification.* The committee shall certify on each application that it has made a determination that program benefits are necessary to achieve a stated program purpose.

(d) *Committee role.* The SHRRP committee shall be responsible for determining whether an individual meets the eligibility criteria and will determine prioritization of services based upon life safety needs.

(e) *Nonmembers.* Nonmembers of the Community may be eligible for SHRRP assistance upon recommendation of the Community manager or Community Council to the SHRRP committee. (Code 1981, § 15.6-4; Code 2012, § 1-159; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-159, 5-30-2012)

Sec. 1-359. Categories.

SHRRP assistance will be provided, subject to the availability of funds, in the following categories:

- (1) Category "A": For repairs to housing to meet life and safety compliance standards;

- (2) Category "B": For emergency repair service;
- (3) Category "C": Training on home maintenance and repair;
- (4) Category "D": For new housing or structural renovation to existing house.

(Code 1981, § 15.6-5; Code 2012, § 1-160; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-160, 5-30-2012)

Sec. 1-360. Purpose of category "A."

The purpose of category "A" assistance is to provide for maintenance or repairs to eligible households. If other adults who are not married to or in a relationship with the eligible Community member reside in the home, they will be required to either assist with the repairs or pay for five percent of the materials used in making the repairs.

(Code 1981, § 15.6-6; Code 2012, § 1-161; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-161, 5-30-2012)

Sec. 1-361. Purpose of category "B."

The purpose of category "B" assistance is to provide weekend and evening emergency home repairs for eligible applicants. Only repairs needed to the applicant's heating/cooling system (HVAC) or plumbing will qualify for category "B" assistance.

(Code 1981, § 15.6-7; Code 2012, § 1-162; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-162, 5-30-2012)

Sec. 1-362. Purpose of category "C."

The purpose of category "C" assistance is to inform and train homeowners on the maintenance of their home, use of utilities, insurance and basic home repairs. This training will be available to all homeowners receiving assistance under SHRRP.

(Code 1981, § 15.6-8; Code 2012, § 1-163; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-163, 5-30-2012)

Sec. 1-363. Purpose of category "D."

(a) The purpose of category "D" assistance is to construct a new home or structurally renovate an existing home when the SHRRP committee determines that the applicant's current home cannot be repaired pursuant to category A life and safety compliance standards.

(b) Eligibility for category "D" replacement and repairs of homes may have to meet income below 100 percent of the Maricopa County area median income as adjusted annually by the United States Department of Housing and Urban Development (HUD).

(c) No applicant may receive more than one home under this category "D."

(Code 1981, § 15.6-9; Code 2012, § 1-164; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-164, 5-30-2012)

Sec. 1-364. Application.

An applicant shall apply for assistance using a SHRRP application and provide any information determined necessary by the SHRRP committee. The housing coordinator shall be responsible for assisting Community members in gathering the information necessary for completion of the application process.

(Code 1981, § 15.6-10; Code 2012, § 1-165; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-165, 5-30-2012)

Sec. 1-365. Application review.

(a) Upon completion of the application process, the SHRRP coordinators shall present the applications to the SHRRP committee. Applicants meeting the eligibility requirements set out in section 1-358 will be reviewed and ranked by the SHRRP committee to determine whether:

- (1) Assistance is to be provided;
- (2) The type of assistance to be provided; and
- (3) The order among recipients by which assistance will be provided.

(b) The factors the SHRRP committee shall consider when reviewing and ranking applications shall include health, welfare and safety

issues, urgency of need, and financial need. The SHRRP committee shall make a decision according to the criteria identified in this section. (Code 1981, § 15.6-11; Code 2012, § 1-166; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-166, 5-30-2012)

Sec. 1-366. Funding.

Funding for SHRRP will be provided for from net gaming revenues. Assistance is limited to funds available. The SHRRP committee makes no guarantee that funds for the program will be available or that successful applicants will receive the maximum benefit under any category of assistance. Program benefits cannot be assigned, pledged or alienated, and shall be considered unfunded for tax purposes. (Code 1981, § 15.6-12; Code 2012, § 1-167; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-167, 5-30-2012)

Sec. 1-367. Appeals.

Appeals from decisions of the SHRRP committee may be made to the Community Council under the rules and procedures established by the council. Decisions of the tribal council are final. (Code 1981, § 15.6-13; Code 2012, § 1-168; Ord. No. SRO-320-07, 9-26-2007; Ord. No. SRO-402-2012, § 1-168, 5-30-2012)

Secs. 1-368—1-392. Reserved.

ARTICLE IV. NONPROFIT ORGANIZATIONS

Sec. 1-393. Established.

There is established by the council of the Community a division of the Community government that is named The Salt River Community Children's Foundation (the foundation). (Code 1981, § 22-21; Code 2012, § 1-170; Ord. No. SRO-294-03, § 2, 2-19-2003; Ord. No. SRO-402-2012, § 1-170, 5-30-2012)

Sec. 1-394. Purposes of the foundation.

The foundation is established pursuant to the powers of the council under the Community Con-

stitution as an integral part of the Community government to sponsor and promote programs and activities for the improvement of the education, health and general welfare of the children of the Community and to this end to seek contributions from all sources and to enter into contracts for the purchase of personal property and for the lease of real property as may be reasonably necessary to its purposes. (Code 1981, § 22-22; Code 2012, § 1-171; Ord. No. SRO-294-03, § 2, 2-19-2003; Ord. No. SRO-402-2012, § 1-171, 5-30-2012)

Sec. 1-395. Board of trustees; duties; fiscal year.

(a) The affairs of the foundation will be managed by a board of trustees comprised of five persons who shall be appointed by the council to serve at the pleasure of the council for a term of three years each, provided that the three-year term of any particular board member shall begin on the date when that particular board member is appointed by the council.

(b) The duties of the board shall be to manage the affairs of the foundation, to carry out its purposes by sponsoring and promoting healthful youth programs and activities, to raise funds from public and private contributions and grants in furtherance of its purposes, to borrow funds from the Community or from other sources, to manage prudently the funds of the foundation, to disburse the funds of the foundation in furtherance of its purposes, and to report to the council upon its activities and financial affairs annually or more frequently if so directed by the council.

(c) The board of trustees shall be subject at all times and as to all of its activities and functions to the supervision and control of the council in recognition of the foundation's status as an integral part of the Community.

(d) The foundation's fiscal year shall commence on October 1. (Code 1981, § 22-23; Code 2012, § 1-172; Ord. No. SRO-294-03, § 2, 2-19-2003; Ord. No. SRO-316-07, 2-21-2007; Ord. No. SRO-402-2012, § 1-172, 5-30-2012)

Sec. 1-396. Contributions to the foundation.

Contributions to the foundation shall be contributions to the Community and as such shall qualify as deductions for federal and Arizona state income, estate and gift tax purposes pursuant to the terms of the Internal Revenue Code and the Arizona state tax statutes pertaining to the deductibility of such contributions. All such contributions shall be dedicated exclusively to the purposes of the foundation including the payment of the expenses of operating the foundation and such contributions shall not be applied to any extent whatever by the council or the foundation toward any other purpose.

(Code 1981, § 22-24; Code 2012, § 1-173; Ord. No. SRO-294-03, § 2, 2-19-2003; Ord. No. SRO-402-2012, § 1-173, 5-30-2012)